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BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED
UNDER THE AUTHORITY OF THE STATUTES
REVISION ACT, 1968-69

IN SIX VOLUMES

VOL. 3

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

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ONTARIO

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CHAPTER 243

The Libel and Slander Act

INTERPRETATION

1.—(1) In this Act,Interpre-
tation

- (a) “broadcasting” means the dissemination of any form of radioelectric communication, including radiotelegraph, radiotelephone, the wireless transmission of writing, signs, signals, pictures and sounds of all kinds, by means of Hertzian waves intended to be received by the public either directly or through the medium of relay stations, and “broadcast” has a corresponding meaning;
- (b) “newspaper” means a paper containing public news, intelligence, or occurrences, or remarks or observations thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two of such papers, parts or numbers, and includes a paper printed in order to be made public weekly or more often or at intervals not exceeding thirty-one days and containing only, or principally, advertisements.

(2) Any reference to words in this Act shall be construed as including a reference to pictures, visual images, gestures and other methods of signifying meaning. R.S.O. 1960, c. 211, s. 1.

Meaning of
words
extended

LIBEL

2. Defamatory words in a newspaper or in a broadcast shall be deemed to be published and to constitute libel. R.S.O. 1960, c. 211, s. 2.

What con-
stitutes
libel

3.—(1) A fair and accurate report in a newspaper or in a broadcast of any of the following proceedings that are open to the public is privileged, unless it is proved that the publication thereof was made maliciously:

Privileged
reports

- 1. The proceedings of any legislative body or any part or committee thereof in the British Commonwealth that may exercise any sovereign power acquired by delegation or otherwise.
- 2. The proceedings of any administrative body that is constituted by any public authority in Canada.

3. The proceedings of any commission of inquiry that is constituted by any public authority in the Commonwealth.
4. The proceedings of any organization whose members, in whole or in part, represent any public authority in Canada.

Idem

(2) A fair and accurate report in a newspaper or in a broadcast of the proceedings of a meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance of discussion of any matter of public concern, whether the admission thereto is general or restricted, is privileged, unless it is proved that the publication thereof was made maliciously.

Publicity
releases

(3) The whole or a part or a fair and accurate synopsis in a newspaper or in a broadcast of any report, bulletin, notice or other document issued for the information of the public by or on behalf of any body, commission or organization mentioned in subsection 1 or any meeting mentioned in subsection 2 is privileged, unless it is proved that the publication thereof was made maliciously.

Decisions,
etc., of
certain
types of
association

(4) A fair and accurate report in a newspaper or in a broadcast of the findings or decision of any of the following associations, or any part or committee thereof, being a finding or decision relating to a person who is a member of or is subject, by virtue of any contract, to the control of the association, is privileged, unless it is proved that the publication thereof was made maliciously:

1. An association formed in Canada for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate upon matters of interest or concern to the association, or the actions or conduct of any persons subject to such control or adjudication.
2. An association formed in Canada for the purpose of promoting or safeguarding the interests of any trade, business, industry or profession, or of the persons carrying on or engaged in any trade, business, industry or profession, and empowered by its constitution to exercise control over or adjudicate upon matters connected with the trade, business, industry or profession.
3. An association formed in Canada for the purpose of promoting or safeguarding the interests of any game, sport or pastime to the playing or exercising of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or adjudicate upon persons connected with or taking part in the game, sport or pastime.

(5) Nothing in this section authorizes any blasphemous, seditious or indecent matter in a newspaper or in a broadcast. Improper matter

(6) Nothing in this section limits or abridges any privilege now by law existing or protects the publication of any matter not of public concern or the publication of which is not for the public benefit. Saving

(7) The protection afforded by this section is not available as a defence in an action for libel if the plaintiff shows that the defendant refused to insert in the newspaper or to broadcast, as the case may be, a reasonable statement of explanation or contradiction by or on behalf of the plaintiff. R.S.O. 1960, c. 211, s. 3. When defendant refuses to publish explanation

4.—(1) A fair and accurate report without comment in a newspaper or in a broadcast of proceedings publicly heard before a court of justice, if published in the newspaper or broadcast contemporaneously with such proceedings, is absolutely privileged unless the defendant has refused or neglected to insert in the newspaper in which the report complained of appeared or to broadcast, as the case may be, a reasonable statement of explanation or contradiction by or on behalf of the plaintiff. Report of proceedings in court

(2) Nothing in this section authorizes any blasphemous, seditious or indecent matter in a newspaper or in a broadcast. R.S.O. 1960, c. 211, s. 4. Improper matter

5.—(1) No action for libel in a newspaper or in a broadcast lies unless the plaintiff has, within six weeks after the alleged libel has come to his knowledge, given to the defendant notice in writing, specifying the matter complained of, which shall be served in the same manner as a statement of claim or by delivering it to a grown-up person at the chief office of the defendant. Notice of action

(2) The plaintiff shall recover only actual damages if it appears on the trial, Where plaintiff to recover only actual damages

- (a) that the alleged libel was published in good faith;
- (b) that the alleged libel did not involve a criminal charge;
- (c) that the publication of the alleged libel took place in mistake or misapprehension of the facts; and
- (d) that a full and fair retraction of any matter therein alleged to be erroneous,
 - (i) was published either in the next regular issue of the newspaper or in any regular issue thereof published within three days after the receipt of the notice mentioned in subsection 1 and was so published in as conspicuous a place and type as was the alleged libel, or

- (ii) was broadcast either within a reasonable time or within three days after the receipt of the notice mentioned in subsection 1 and was so broadcast as conspicuously as was the alleged libel.

Case of
candidate
for public
office

(3) This section does not apply to the case of a libel against any candidate for public office unless the retraction of the charge is made in a conspicuous manner at least five days before the election. R.S.O. 1960, c. 211, s. 5.

Limitation
of action

6. An action for a libel in a newspaper or in a broadcast shall be commenced within three months after the libel has come to the knowledge of the person defamed, but, where such an action is brought within that period, the action may include a claim for any other libel against the plaintiff by the defendant in the same newspaper or the same broadcasting station within a period of one year before the commencement of the action. R.S.O. 1960, c. 211, s. 6.

Application
of ss. 5 (1), 6

7. Subsection 1 of section 5 and section 6 apply only to newspapers printed and published in Ontario and to broadcasts from a station in Ontario. R.S.O. 1960, c. 211, s. 7.

Publication
of name of
publisher,
etc.

8.—(1) No defendant in an action for a libel in a newspaper is entitled to the benefit of sections 5 and 6 unless the names of the proprietor and publisher and the address of publication are stated either at the head of the editorials or on the front page of the newspaper.

Copy of
newspaper
to be
prima facie
evidence

(2) The production of a printed copy of a newspaper is admissible in evidence as *prima facie* proof of the publication of the printed copy and of the truth of the statements mentioned in subsection 1.

Where
ss. 5, 6 not
to apply

(3) Where a person, by registered letter containing his address and addressed to a broadcasting station, alleges that a libel against him has been broadcast from the station and requests the name and address of the owner or operator of the station or the names and addresses of the owner and the operator of the station, sections 5 and 6 do not apply with respect to an action by such person against such owner or operator for the alleged libel unless the person whose name and address are so requested delivers the requested information to the first-mentioned person, or mails it by registered letter addressed to him, within ten days from the date on which the first-mentioned registered letter is received at the broadcasting station. R.S.O. 1960, c. 211, s. 8.

Newspaper
libel, plea
in mitigation
of damages

9.—(1) In an action for a libel in a newspaper, the defendant may plead in mitigation of damages that the libel was inserted therein without actual malice and without gross negligence and

that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in such newspaper a full apology for the libel or, if the newspaper in which the libel appeared is one ordinarily published at intervals exceeding one week, that he offered to publish the apology in any newspaper to be selected by the plaintiff.

(2) In an action for a libel in a broadcast, the defendant may plead in mitigation of damages that the libel was broadcast without actual malice and without gross negligence and that before the commencement of the action, or at the earliest opportunity afterwards, he broadcast a full apology for the libel. R.S.O. 1960, c. 211, s. 9.

Broadcast
libel, plea
in mitigation
of
damages

10. In an action for a libel in a newspaper or in a broadcast, the defendant may prove in mitigation of damages that the plaintiff has already brought action for, or has recovered damages, or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as that for which such action is brought. R.S.O. 1960, c. 211, s. 10.

Evidence in
mitigation
of damages

11. A defendant may pay into court with his defence a sum of money by way of amends for the injury sustained by the publication of any libel to which sections 5 and 9 apply, and except so far as regards the additional facts hereinbefore required to be pleaded by a defendant, such payment has the same effect as payment into court in other cases. R.S.O. 1960, c. 211, s. 11.

Payment
into court

12.—(1) The court, upon an application by two or more defendants in any two or more actions for the same or substantially the same libel, or for a libel or libels the same or substantially the same in different newspapers or broadcasts, brought by the same person or persons, may make an order for the consolidation of such actions so that they will be tried together, and, after such order has been made and before the trial of such actions, the defendants in any new actions instituted by the same person or persons in respect of any such libel or libels are also entitled to be joined in the common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

Consolidation of
different
actions for
same libel

(2) In a consolidated action under this section, the jury shall assess the whole amount of the damages, if any, in one sum, but a separate verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately, and, if the jury finds a verdict against the defendant or defendants in more than one of the actions so consolidated, the jury shall apportion the amount of the damages between and against the last-mentioned defendants, and the judge at the trial,

Assessment
of damages
and apportionment
of damages
and costs

in the event of the plaintiff being awarded the costs of the action, shall thereupon make such order as he considers just for the apportionment of the costs between and against such defendants.

Application (3) This section does not apply where the libel or libels were contained in an advertisement. R.S.O. 1960, c. 211, s. 12.

Security
for costs

13.—(1) In an action for a libel in a newspaper or in a broadcast, the defendant may, at any time after the delivery of the statement of claim or the expiry of the time within which it should have been delivered, apply to the court for security for costs, upon notice and an affidavit by the defendant or his agent showing the nature of the action and of the defence, that the plaintiff is not possessed of property sufficient to answer the costs of the action in case judgment is given in favour of the defendant, that the defendant has a good defence on the merits and that the statements complained of were made in good faith, or that the grounds of action are trivial or frivolous, and the court may make an order for the plaintiff to give security for costs, which shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario, and the order is a stay of proceedings until the security is given.

Where libel
involves a
criminal
charge

(2) Where the alleged libel involves a criminal charge, the defendant is not entitled to security for costs under this section unless he satisfies the court that the action is trivial or frivolous, or that the circumstances which under section 5 entitle the defendant at the trial to have the damages restricted to actual damages appear to exist, except the circumstances that the matter complained of involves a criminal charge.

Examina-
tion of
parties

(3) For the purpose of this section, the plaintiff or the defendant or their agents may be examined upon oath at any time after the delivery of the statement of claim.

When order
of judge
respecting
security
final

(4) An order made under this section by a judge of the Supreme Court is final and is not subject to appeal, but, where the order is made by a local judge, an appeal therefrom lies to a judge of the Supreme Court sitting in chambers, whose order is final and is not subject to appeal. R.S.O. 1960, c. 211, s. 13.

Place of
trial

14. An action for a libel in a newspaper or in a broadcast shall be tried in the county where the chief office of the newspaper or broadcasting station is, or in the county where the plaintiff resides at the time the action is brought; but, upon the application of either party, the court may direct the action to be tried, or the damages to be assessed, in any other county if it appears to be in the interests of justice or that it will promote a fair trial, and may

impose such terms as to the payment of witness fees and otherwise as seem proper. R.S.O. 1960, c. 211, s. 14.

15. On the trial of an action for libel, the jury may give a general verdict upon the whole matter in issue in the action and shall not be required or directed to find for the plaintiff merely on proof of publication by the defendant of the alleged libel and of the sense ascribed to it in the action, but the court shall, according to its discretion, give its opinion and directions to the jury on the matter in issue as in other cases, and the jury may on such issue find a special verdict, if they think fit so to do, and the proceedings after verdict, whether general or special, shall be the same as in other cases. R.S.O. 1960, c. 211, s. 15. Verdicts

16. An agreement for indemnifying any person against civil liability for libel is not unlawful. R.S.O. 1960, c. 211, s. 16. Agreements for indemnity

SLANDER

17. In an action for slander for defamatory words spoken of a woman imputing unchastity or adultery, it is not necessary to allege in the plaintiff's statement of claim or to prove that special damage resulted to the plaintiff from the utterance of such words, and the plaintiff may recover damages without averment or proof of special damage. R.S.O. 1960, c. 211, s. 17. Slander of women

18. In an action for slander for words calculated to disparage the plaintiff in any office, profession, calling, trade or business held or carried on by him at the time of the publication thereof, it is not necessary to allege or prove special damage, whether or not the words are spoken of the plaintiff in the way of his office, profession, calling, trade or business, and the plaintiff may recover damages without averment or proof of special damage. R.S.O. 1960, c. 211, s. 18. Slander affecting official professional or business reputation

19. In an action for slander of title, slander of goods or other malicious falsehood, it is not necessary to allege or prove special damage, Slander of title, etc.

- (a) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form; or
- (b) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication,

and the plaintiff may recover damages without averment or proof of special damage. R.S.O. 1960, c. 211, s. 19.

Security
for costs

20.—(1) In an action for slander, the defendant may, at any time after the delivery of the statement of claim or the expiry of the time within which it should have been delivered, apply to the court for security for costs, upon notice and an affidavit by the defendant or his agent showing the nature of the action and of the defence, that the plaintiff is not possessed of property sufficient to answer the costs of the action in case judgment is given in favour of the defendant, that the defendant has a good defence on the merits, or that the grounds of action are trivial or frivolous, and the court may make an order for the plaintiff to give security for costs, which shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario, and the order is a stay of proceedings until the security is given.

Examina-
tion of
parties

(2) For the purpose of this section, the plaintiff or the defendant may be examined upon oath at any time after the delivery of the statement of claim. R.S.O. 1960, c. 211, s. 20.

LIBEL AND SLANDER

Averments

21. In an action for libel or slander, the plaintiff may aver that the words complained of were used in a defamatory sense, specifying the defamatory sense without any prefatory averment to show how the words were used in that sense, and the averment shall be put in issue by the denial of the alleged libel or slander, and, where the words set forth, with or without the alleged meaning, show a cause of action, the statement of claim is sufficient. R.S.O. 1960, c. 211, s. 21.

Apologies

22. In an action for libel or slander where the defendant has pleaded a denial of the alleged libel or slander only, or has suffered judgment by default, or judgment has been given against him on motion for judgment on the pleadings, he may give in evidence, in mitigation of damages, that he made or offered a written apology to the plaintiff for such libel or slander before the commencement of the action, or, if the action was commenced before there was an opportunity of making or offering such apology, that he did so as soon afterwards as he had an opportunity. R.S.O. 1960, c. 211, s. 22.

Justification

23. In an action for libel or slander for words containing two or more distinct charges against the plaintiff, a defence of justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges. R.S.O. 1960, c. 211, s. 23.

24. In an action for libel or slander for words consisting partly of allegations of fact and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved. R.S.O. 1960, c. 211, s. 24.

CHAPTER 244

The Lieutenant Governor Act

1. In matters within the jurisdiction of the Legislature, all powers, authorities and functions that, in respect of like matters, were vested in or exercisable by the governors or lieutenant governors of the several provinces now forming part of Canada or any of the provinces, under commissions, instructions or otherwise, at or before the passing of *The British North America Act, 1867*, are, so far as the Legislature has power thus to enact, vested in and exercisable by the Lieutenant Governor or Administrator for the time being of the Province of Ontario, in the name of Her Majesty or otherwise as the case requires, subject always to the Royal Prerogative as heretofore. R.S.O. 1960, c. 212, s. 1.

Powers
vested in
Lieutenant
Governor

1867, c. 3
(Imp.)

2. Section 1 shall be deemed to include the power of commuting and remitting sentences for offences against the laws of Ontario or offences over which the legislative authority of the Province of Ontario extends. R.S.O. 1960, c. 212, s. 2.

Power to
remit
sentences

3. The Lieutenant Governor for the time being is a corporation sole, and all bonds, recognizances and other instruments by law required to be taken to him in his public capacity shall be taken to him by his name of office, and may be sued for and recovered by him by his name of office, and the same shall not in any case go to or vest in the personal representatives of the Lieutenant Governor during whose government the same were so taken. R.S.O. 1960, c. 212, s. 3.

Lieutenant
Governor a
corporation
sole

4. The Lieutenant Governor may, with the advice and consent of the Executive Council, from time to time appoint any person or persons, jointly or severally, to be his deputy or deputies for Ontario or any part or parts thereof, for the purpose of executing marriage licences, money warrants and commissions under any Act of the Legislature. R.S.O. 1960, c. 212, s. 4.

Power to
appoint
deputies for
certain
purposes

CHAPTER 245

The Lightning Rods Act**1. In this Act,**Interpre-
tation

- (a) "Fire Marshal" means the Fire Marshal of Ontario;
- (b) "inspector" means an inspector appointed under this Act;
- (c) "lightning rods" means the points, cables, groundings and other apparatus installed or to be installed to protect buildings and structures from damage by lightning;
- (d) "regulations" means the regulations made under this Act;
- (e) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 213, s. 1, *amended*.

2. No person shall offer for sale, sell or install lightning rods unless licensed to do so by the Fire Marshal under this Act. R.S.O. 1960, c. 213, s. 2.

Sellers, etc.,
of lightning
rods to be
licensed**3.—(1) Upon receipt of,**Power to
license

- (a) an application in the prescribed form for a licence to offer for sale, sell and install lightning rods, containing a sworn statement of the amount received from the sale of lightning rods in Ontario during the previous licence year and a statement of the specifications of the lightning rods to be offered for sale, sold and installed during the licence year;
- (b) a licence fee computed at four-fifths of 1 per cent of the amount received from the sale of lightning rods in Ontario during the preceding licence year, and in addition the sum of \$50, payable to the Treasurer; and
- (c) samples of the lightning rods to be offered for sale, sold and installed during the licence year, or such parts thereof as may be required by the Fire Marshal,

the Fire Marshal, if he is satisfied that the applicant is entitled to public confidence, may issue to the applicant a licence to offer for sale, sell and install lightning rods, and the licence shall remain in force until the 31st day of December next after the date of issue unless it is sooner suspended or revoked.

What may
be sold, etc.

(2) No licensee under this section shall offer for sale, sell or install lightning rods other than those in respect of which the licence was issued. R.S.O. 1960, c. 213, s. 3.

Agents

4.—(1) Upon receipt of,

- (a) an application in the prescribed form from a licensee under section 3 for a licence for the person named therein, who shall be a resident of Ontario, to act as an agent of such licensee, containing a statement in writing from the person named therein giving the address of his place of residence and place of business, his experience in connection with lightning rods, and his financial standing with any licensee under section 3 for whom he has acted as agent; and

- (b) a licence fee of \$3 payable to the Treasurer,

the Fire Marshal, if he is satisfied that the person named is entitled to public confidence, may issue a licence to him to act as agent for the licensee, and the licence remains in force until the 31st day of December next after the date of issue unless it is sooner suspended or revoked.

What may
be sold, etc.,
by agents

(2) No licensed agent shall offer for sale, sell or install lightning rods other than those in respect of which his principal is licensed. R.S.O. 1960, c. 213, s. 4.

Suspension
and
revocation
of licences

5. The Fire Marshal may, after a hearing, suspend or revoke a licence for non-compliance with this Act or the regulations and he shall prepare written reasons for his decision and cause a copy of his decision and the reasons therefor to be served upon the licensee. R.S.O. 1960, c. 213, s. 5; 1960-61, c. 46, s. 1.

Notice of
revocation,
etc., of
licence

6.—(1) Where the Fire Marshal refuses to issue a licence under this Act or where the Fire Marshal suspends or revokes a licence issued under this Act, the Fire Marshal shall send notice of the refusal, suspension or revocation to the applicant or licensee, as the case may be, by registered mail addressed to him at his address as shown in the records of the Fire Marshal's office.

Appeal

(2) If the applicant or licensee, as the case may be, is dissatisfied with the decision of the Fire Marshal, he may, within ten days after receipt of the notice of the decision, apply to the judge of the county or district court of the county or district in which he resides for an order reversing the decision of the Fire Marshal.

Hearing

(3) On an application under subsection 2, the judge shall hold a hearing upon such notice as he considers proper and, after hearing the applicant, the Fire Marshal and any other evidence either of them produces, he may,

- (a) where the Fire Marshal refused to issue a licence, dismiss the application if he is not satisfied that the applicant is entitled to public confidence or order the Fire Marshal to issue the licence if he is satisfied that the applicant is entitled to public confidence; or
- (b) where the Fire Marshal suspended or revoked a licence, dismiss the application if he is not satisfied that the applicant has complied with the Act and the regulations or order the Fire Marshal to reinstate the licence if he is satisfied that the applicant has complied with the Act and the regulations. R.S.O. 1960, c. 213, s. 6.

7. Every person offering for sale, selling or installing lightning rods shall exhibit his licence, Duty to exhibit licence

- (a) to every person to whom he offers to sell or sells, or for whom he installs lightning rods; and
- (b) upon demand to any mayor, reeve, fire chief, district deputy fire marshal, assistant to the Fire Marshal, fire prevention officer or police officer. R.S.O. 1960, c. 213, s. 7.

8.—(1) Every person who installs lightning rods on any building or structure shall, upon completion of the work, make a certificate of installation in triplicate in the prescribed form showing, Certificate of installation

- (a) his name, address and licence number and, where he is an agent, the name, address and licence number of his principal;
- (b) the name and address of the owner of the building or structure;
- (c) the location of the building or structure;
- (d) a diagram of the building or structure marking the location of each grounding;
- (e) the nature and condition of the soil at each grounding;
- (f) the method of each grounding,

and certifying that the facts shown are true and that the installation has been made in accordance with this Act and the regulations, and, after signing, he shall present the certificate for the signature of the owner or his agent to confirm that the nature and condition of the soil and the method of each grounding are as described.

(2) Every person who makes a certificate of installation shall give a copy thereof to the owner or his agent and forward a copy to the Fire Marshal. R.S.O. 1960, c. 213, s. 8. Disposal of copies

Offence

9. Every person who fails to comply with this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 or to imprisonment for a term of not more than six months for each offence, or to both fine and imprisonment. R.S.O. 1960, c. 213, s. 9.

Non-conforming installations

10.—(1) Where upon inspection an installation of lightning rods is found not to conform with this Act and the regulations, the licensee under section 3 who made the installation shall, within sixty days from the receipt of the inspector's report or such further period as is allowed by the Fire Marshal, make such alterations or additions thereto as the inspector considers necessary to make the installation conform with this Act and the regulations, but this subsection does not apply where the installation is found not to so conform by reason of alterations or additions made thereto or to the building or structure other than by the licensee.

Conforming installations

(2) Where upon inspection an installation of lightning rods is found to conform with this Act and the regulations, the inspector may attach a seal indicating that the installation is at the time of the inspection in conformity with this Act and the regulations. R.S.O. 1960, c. 213, s. 10.

Right to recover for loss

11.—(1) Where lightning rods that were installed on a building or structure by a licensed person have been installed for fewer than ten years and the owner thereof has suffered loss by reason of damage by lightning to the lightning rods, building or structure, and where no alterations or additions or repairs that affect the proper operation of the lightning rods have been made to the lightning rods or to the building or structure by persons other than the licensee, the owner may bring an action against the licensee for recovery of the amount of loss, not exceeding the total cost of the installation.

Notice of claim, commencement of action

(2) Notice of any such claim shall be given to the licensee within thirty days after the loss was suffered, and the action shall be commenced not fewer than sixty days and not more than one year after the loss was suffered. R.S.O. 1960, c. 213, s. 11.

Application of licence fees

12. Licence fees paid to the Treasurer under this Act shall be added to the special fund for the maintenance of the office of the Fire Marshal. R.S.O. 1960, c. 213, s. 12.

Inspectors

13. The Lieutenant Governor in Council may appoint one or more inspectors to enforce this Act and the regulations. R.S.O. 1960, c. 213, s. 13.

Application of Act

14. This Act does not apply to the installation of lightning rods on a building or structure by the owner or occupant of the

building or structure where he himself does the work, or the work is done by his employee or employees under his direction. R.S.O. 1960, c. 213, s. 14.

15. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing minimum standards for lightning rods;
 - (b) governing the manner of installing lightning rods;
 - (c) designating buildings or structures or classes of buildings or structures to which this Act shall not apply;
 - (d) prescribing the form of,
 - (i) the application for a licence to offer for sale, sell and install lightning rods,
 - (ii) the licence to offer for sale, sell and install lightning rods,
 - (iii) the application for a licence to act as an agent to offer for sale, sell and install lightning rods,
 - (iv) the licence to act as agent to offer for sale, sell and install lightning rods,
 - (v) the certificate of installation of lightning rods,
 - (vi) the report of the inspector mentioned in subsection 1 of section 10,
 - (vii) the seal mentioned in subsection 2 of section 10. R.S.O. 1960, c. 213, s. 15.
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CHAPTER 246

The Limitations Act

1. In this Act,Interpre-
tation

- (a) "action" includes an information on behalf of the Crown and any civil proceeding;
- (b) "assurance" means a deed or instrument, other than a will, by which land may be conveyed or transferred;
- (c) "land" includes messuages and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties or any of them, any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interest or any of them, are in possession, reversion, remainder or contingency;
- (d) "rent" includes all annuities and periodical sums of money charged upon or payable out of land. R.S.O. 1960, c. 214, s. 1.

PART I

REAL PROPERTY

2. Nothing in this Act interferes with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Act. R.S.O. 1960, c. 214, s. 2.

Refusing
relief
because of
acquiescence
or otherwise

3.—(1) No entry, distress, or action shall be made or brought on behalf of Her Majesty against any person for the recovery of or respecting any land or rent, or of land or for or concerning any revenues, rents, issues or profits, but within sixty years next after the right to make such entry or distress or to bring such action has first accrued to Her Majesty.

Limitation
where the
Crown
interested

(2) Subsections 1 to 3, 5 to 7 and 9 to 12 of section 5 and sections 6, 8 to 11 and 13 to 15 apply to rights of entry, distress or action asserted by or on behalf of Her Majesty. R.S.O. 1960, c. 214, s. 3.

Application
of certain
sections to
Crown

Limitation
where the
subject
interested

4. No person shall make an entry or distress, or bring an action to recover any land or rent, but within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to some person through whom he claims, or if the right did not accrue to any person through whom he claims, then within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to the person making or bringing it. R.S.O. 1960, c. 214, s. 4.

When right
accrues on
dispossession

5.—(1) Where the person claiming such land or rent, or some person through whom he claims, has, in respect of the estate or interest claimed, been in possession or in receipt of the profits of the land, or in receipt of the rent, and has, while entitled thereto, been dispossessed, or has discontinued such possession or receipt, the right to make an entry or distress or bring an action to recover the land or rent shall be deemed to have first accrued at the time of the dispossession or discontinuance of possession, or at the last time at which any such profits or rent were so received.

On death

(2) Where the person claiming such land or rent claims the estate or interest of a deceased person who continued in such possession or receipt, in respect of the same estate or interest, until the time of his death, and was the last person entitled to such estate or interest who was in such possession or receipt, the right shall be deemed to have first accrued at the time of such death.

On alienation

(3) Where the person claiming such land or rent claims in respect of an estate or interest in possession, granted, appointed or otherwise assured by an assurance to him or some person through whom he claims, by a person being, in respect of the same estate or interest, in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under the assurance has been in possession or receipt, the right shall be deemed to have first accrued at the time at which the person so claiming or the person, through whom he claims, became entitled to such possession or receipt by virtue of the assurance.

As to land
not cultivated
or improved

(4) In the case of land granted by the Crown of which the grantee, his heirs or assigns, by themselves, their servants or agents, have not taken actual possession by residing upon or cultivating some part thereof, and of which some other person not claiming to hold under such grantee has been in possession, such possession having been taken while the land was in a state of nature, then unless it is shown that the grantee or person claiming under him while entitled to the land had knowledge of it being in the actual possession of such other person, the lapse of ten years does not bar the right of the grantee or any person claiming under him to bring an action for the recovery of the land, but the right to bring an action shall be deemed to have accrued from the time that such knowledge was obtained, but no action shall be brought

or entry made after twenty years from the time such possession was taken.

(5) Where a person is in possession or in receipt of the profits of any land, or in receipt of any rent by virtue of a lease in writing, by which a rent amounting to the yearly sum of \$4 or upwards is reserved, and the rent reserved by the lease has been received by some person wrongfully claiming to be entitled to the land or rent in reversion immediately expectant on the determination of the lease, and no payment in respect of the rent reserved by the lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to the land or rent, subject to the lease, or of the person through whom he claims to make an entry or distress, or to bring an action after the determination of the lease, shall be deemed to have first accrued at the time at which the rent reserved by the lease was first so received by the person so wrongfully claiming, and no such right shall be deemed to have first accrued upon the determination of the lease to the person rightfully entitled.

Where rent reserved by lease in writing has been wrongfully received

(6) Where a person is in possession or in receipt of the profits of any land, or in receipt of any rent as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover the land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy was received, whichever last happened.

Where tenancy from year to year

(7) Where a person is in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover the land or rent, shall be deemed to have first accrued either at the determination of the tenancy, or at the expiration of one year next after the commencement of the tenancy, at which time the tenancy shall be deemed to have determined.

In the case of a tenant at will

(8) No mortgagor or *cestui que trust* shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of subsection 7.

Case of mortgagor or *cestui que trust*

(9) Where the person claiming such land or rent, or the person through whom he claims, has become entitled by reason of any forfeiture or breach of condition, such right shall be deemed to have first accrued when the forfeiture was incurred or the condition broken.

In case of forfeiture or breach of condition

(10) Where any right to make an entry or distress, or to bring an action to recover any land or rent, by reason of any forfeiture or breach of condition, has first accrued in respect of any estate or

Where advantage of forfeiture is not taken by remainder man

interest in reversion or remainder and the land or rent has not been recovered by virtue of such right, the right to make an entry or distress, or to bring an action to recover the land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when it became an estate or interest in possession as if no such forfeiture or breach of condition had happened.

In case of
future
estates

(11) Where the estate or interest claimed is an estate or interest in reversion or remainder, or other future estate or interest, and no person has obtained the possession or receipt of the profits of the land, or the receipt of the rent, in respect of such estate or interest, such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession.

Further
provision for
cases of
future
estates

(12) A right to make an entry or distress, or to bring an action to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder or other future estate or interest at the time at which it became an estate or interest in possession, by the determination of any estate or estates in respect of which the land has been held or the profits thereof or the rent have been received, notwithstanding that the person claiming the land or rent, or some person through whom he claims, has, at any time before to the creation of the estate or estates that have determined, been in the possession or receipt of the profits of the land, or in receipt of the rent. R.S.O. 1960, c. 214, s. 5.

Limitation
in case of
future
estates when
person
entitled
to the parti-
cular estate
out of
possession
etc.

6.—(1) If the person last entitled to any particular estate on which any future estate or interest was expectant has not been in the possession or receipt of the profits of the land, or in receipt of the rent, at the time when his interest determined, no such entry or distress shall be made and no such action shall be brought by any person becoming entitled in possession to a future estate or interest but within ten years next after the time when the right to make an entry or distress, or to bring an action for the recovery of the land or rent, first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of those two periods is the longer.

The case of
bar of future
estate and of
a subsequent
interest
created after
entry, etc.,
accrued to
owner of
particular
estate

(2) If the right of any such person to make such entry or distress, or to bring any such action, has been barred, no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will or settlement executed or taking effect after the time when a right to make an entry or distress or to bring an action for the recovery of the land or rent, first accrued to the owner of the particular estate whose interest has so determined, shall make any entry or distress, or bring any action, to recover the land or rent.

(3) Where the right of any person to make an entry or distress, or to bring an action to recover any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period that is applicable in such case, and such person has, at any time during such period, been entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress or action shall be made or brought by such person, or by any person claiming through him, to recover the land or rent in respect of such other estate, interest, right or possibility, unless in the meantime the land or rent has been recovered by some person entitled to an estate, interest or right that has been limited or taken effect after or in defeasance of such estate or interest in possession. R.S.O. 1960, c. 214, s. 6.

Bar of right to future estates acquired after bar of particular estate

7. For the purposes of this Act, an administrator claiming the estate or interest of the deceased person of whose property he has been appointed administrator shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. R.S.O. 1960, c. 214, s. 7.

When right of action devolves to administrator

8. No person shall be deemed to have been in possession of any land within the meaning of this Act merely by reason of having made an entry thereon. R.S.O. 1960, c. 214, s. 8.

Effect of mere entry

9. No continual or other claim upon or near any land preserves any right of making an entry or distress or of bringing an action. R.S.O. 1960, c. 214, s. 9.

Continual claim

10. No descent cast, discontinuance or warranty, that has happened or been made since the 1st day of July, 1834, or that may hereafter happen or be made, shall toll or defeat any right of entry or action for the recovery of land. R.S.O. 1960, c. 214, s. 10.

Descent cast, discontinuance warranty etc.

11. Where any one or more of several persons entitled to any land or rent as coparceners, joint tenants or tenants in common has or have been in possession or receipt of the entirety, or more than his or their undivided share or shares of the land, or of the profits thereof, or of the rent for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of, or by the last-mentioned person or persons or any of them. R.S.O. 1960, c. 214, s. 11.

Possession of one coparcener, etc.

12. Where a relation of the persons entitled as heirs to the possession or receipt of the profits of any land, or to the receipt of

Possession of relations

any rent, enters into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the persons entitled as heirs. R.S.O. 1960, c. 214, s. 12.

Effect of
acknowledgment in
writing

13. Where any acknowledgment in writing of the title of the person entitled to any land or rent has been given to him or to his agent, signed by the person in possession or in receipt of the profits of the land, or in the receipt of the rent, such possession or receipt of or by the person by whom the acknowledgment was given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent the acknowledgment was given at the time of giving it, and the right of the last-mentioned person, or of any person claiming through him, to make an entry or distress or bring an action to recover the land or rent, shall be deemed to have first accrued at and not before the time at which the acknowledgment, or the last of the acknowledgments, if more than one, was given. R.S.O. 1960, c. 214, s. 13.

Effect of
receipt of
rent

14. The receipt of the rent payable by a lessee, shall, as against such lessee or any person claiming under him, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act. R.S.O. 1960, c. 214, s. 14.

Extinguish-
ment of
right at the
end of the
period of
limitation

15. At the determination of the period limited by this Act to any person for making an entry or distress or bringing any action, the right and title of such person to the land or rent, for the recovery whereof such entry, distress or action, respectively, might have been made or brought within such period, is extinguished. R.S.O. 1960, c. 214, s. 15.

Waste or
vacant land
of Crown
excepted

16. Nothing in sections 1 to 15 applies to any waste or vacant land of the Crown, whether surveyed or not, nor to lands included in any road allowance heretofore or hereafter surveyed and laid out or to any lands reserved or set apart or laid out as a public highway where the freehold in any such road allowance or highway is vested in the Crown or in a municipal corporation, commission or other public body, but nothing in this section shall be deemed to affect or prejudice any right, title or interest acquired by any person before the 13th day of June, 1922. R.S.O. 1960, c. 214, s. 16.

Maximum
of arrears of
rent or
interest
recoverable

17.—(1) No arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, whether it is or is not charged upon land, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress or action but within six years next after the same respectively has become due, or next after any acknowl-

edgment in writing of the same has been given to the person entitled thereto or his agent, signed by the person by whom the same was payable or his agent.

(2) This section does not apply to an action for redemption brought by a mortgagor or a person claiming under him. R.S.O. 1960, c. 214, s. 17. Exception as to action for redemption

18. Where a prior mortgagee or other encumbrancer has been in possession of any land, or in the receipt of the profits thereof, within one year next before an action is brought by a person entitled to a subsequent mortgage or other encumbrance on the same land, the person entitled to the subsequent mortgage or encumbrance may recover in the action the arrears of interest that have become due during the whole time that the prior mortgagee or encumbrancer was in such possession or receipt, although the time may have exceeded the term of six years. R.S.O. 1960, c. 214, s. 18. Exception in favour of subsequent mortgagee when a prior mortgagee has been in possession

19. Where a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring any action to redeem the mortgage but within ten years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment in writing of the title of the mortgagor, or of his right to redemption, has been given to the mortgagor or to some person claiming his estate, or to the agent of such mortgagor or person, signed by the mortgagee, or the person claiming through him, and in such case no such action shall be brought but within ten years next after the time at which the acknowledgment, or the last of the acknowledgments if more than one, was given. R.S.O. 1960, c. 214, s. 19. Limitation where a mortgagee in possession

20. Where there are more mortgagors than one or more persons than one claiming through the mortgagor or mortgagors, the acknowledgment, if given to any of such mortgagors or persons, or his or their agent, is as effectual as if it had been given to all such mortgagors or persons. R.S.O. 1960, c. 214, s. 20. Acknowledgment to one of several mortgagors

21. Where there are more mortgagees than one or more persons than one claiming the estate or interest of the mortgagee or mortgagees, the acknowledgment, signed by one or more of such mortgagees or persons, is effectual only as against the person or persons so signing, and the person or persons claiming any part of the mortgage money or land or rent by, from, or under him, or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and does not operate to give to the mortgagor or mortgagors a right to redeem the Acknowledgment to one of several mortgagees

mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons as have given the acknowledgment are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors are entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money that bears the same proportion to the whole of the mortgage money as the value of the divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage. R.S.O. 1960, c. 214, s. 21.

Limitation
where
mortgage
in arrear

22. Any person entitled to or claiming under a mortgage of land may make an entry or bring an action to recover the land at any time within ten years next after the last payment of any part of the principal money or interest secured by the mortgage, although more than ten years have elapsed since the time at which the right to make such entry or bring such action first accrued. R.S.O. 1960, c. 214, s. 22.

Limitation
where
money
charged
upon land
and
legacies

23.—(1) No action shall be brought to recover out of any land or rent any sum of money secured by any mortgage or lien, or otherwise charged upon or payable out of the land or rent, or to recover any legacy, whether it is or is not charged upon land, but within ten years next after a present right to receive it accrued to some person capable of giving a discharge for, or release of it, unless in the meantime some part of the principal money or some interest thereon has been paid, or some acknowledgment in writing of the right thereto signed by the person by whom it is payable, or his agent, has been given to the person entitled thereto or his agent, and in such case no action shall be brought but within ten years after the payment or acknowledgment, or the last of the payments or acknowledgments if more than one, was made or given.

Execution
against land

(2) Notwithstanding subsection 1, a lien or charge created by the placing of an execution or other process against land in the hands of the sheriff or other officer to whom it is directed, remains in force so long as the execution or other process remains in the hands of the sheriff or officer for execution and is kept alive by renewal or otherwise. R.S.O. 1960, c. 214, s. 23.

Time for
recovering
charges and
arrears of
interest not
to be enlarged
by express
trusts for
raising same

24. No action shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent and secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable and so secured, or any damages in respect of such arrears, except within the time within which the same would be recoverable if there were not any such trust. R.S.O. 1960, c. 214, s. 24.

25. Subject to section 26, no action of dower shall be brought but within ten years from the death of the husband of the doweress, notwithstanding any disability of the doweress or of any person claiming under her. R.S.O. 1960, c. 214, s. 25.

Limitation
of action
of dower

26. Where a doweress has, after the death of her husband, actual possession of the land of which she is dowable, either alone or with an heir or devisee of, or a person claiming by devolution from her husband, the period of ten years within which her action of dower is to be brought shall be computed from the time when such possession of the doweress ceased. R.S.O. 1960, c. 214, s. 26.

Time from
which right
to bring
action of
dower to be
computed

27. No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action for a longer period than six years next before the commencement of such action. R.S.O. 1960, c. 214, s. 27.

Maximum
of arrears of
dower
recoverable

28. In every case of a concealed fraud, the right of a person to bring an action for the recovery of any land or rent of which he or any person through whom he claims may have been deprived by the fraud shall be deemed to have first accrued at and not before the time at which the fraud was or with reasonable diligence might have been first known or discovered. R.S.O. 1960, c. 214, s. 28.

Cases where
fraud
remains
concealed

29. Nothing in section 28 enables any owner of land or rent to bring an action for the recovery of the land or rent, or for setting aside any conveyance thereof, on account of fraud against any purchaser in good faith for valuable consideration, who has not assisted in the commission of the fraud, and who, at the time that he made the purchase did not know, and had no reason to believe, that any such fraud had been committed. R.S.O. 1960, c. 214, s. 29.

Case of *bona fide* purchaser for value without notice

30. No claim that may be made lawfully at the common law, by custom, prescription or grant, to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or of any person, except such matters or things as are hereinafter specially provided for, and except rent and services, where the profit or benefit has been actually taken and enjoyed by any person claiming right thereto without interruption for the full period of thirty years, shall be defeated or destroyed by showing only that the profit or benefit was first taken or enjoyed at any time prior to the period of thirty years, but nevertheless the claim may be defeated in any other way by which it is now liable to be defeated, and when the profit or benefit has been so taken and enjoyed for the full period of sixty years, the right thereto shall be deemed

Limitation
in case of
profits

absolute and indefeasible, unless it appears that it was taken and enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1960, c. 214, s. 30.

Right of way easement, etc.

31. No claim that may be made lawfully at the common law, by custom, prescription or grant, to any way or other easement, or to any water course, or the use of any water to be enjoyed, or derived upon, over or from any land or water of the Crown or being the property of any person, when the way or other matter as herein last before-mentioned has been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years shall be defeated or destroyed by showing only that the way or other matter was first enjoyed at any time prior to the period of twenty years, but, nevertheless the claim may be defeated in any other way by which it is now liable to be defeated, and where the way or other matter as herein last before-mentioned has been so enjoyed for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that it was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1960, c. 214, s. 31.

How period to be calculated, and what acts deemed an interruption

32. Each of the respective periods of years mentioned in sections 30 and 31 shall be deemed and taken to be the period next before some action wherein the claim or matter to which such period relates was or is brought into question, and no act or other matter shall be deemed an interruption within the meaning of those sections, unless the same has been submitted to or acquiesced in for one year after the person interrupted has had notice thereof, and of the person making or authorizing the same to be made. R.S.O. 1960, c. 214, s. 32.

Right to access and use of light by prescription abolished

33. No person shall acquire a right by prescription to the access and use of light or to the access and use of air to or for any dwelling-house, work-shop or other building, but this section does not apply to any such right acquired by twenty years use before the 5th day of March, 1880. R.S.O. 1960, c. 214, s. 33.

Necessity for strict proof

34. In the cases mentioned in and provided for by this Act, of claims to ways, water courses or other easements, no presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this Act as is applicable to the case and to the nature of the claim. R.S.O. 1960, c. 214, s. 34.

Easements not acquired for carrying wires and cables

35. No easement in respect of wires or cables attached to property or buildings or passing through or carried over such property or buildings shall be deemed to have been acquired or

shall hereafter be acquired by prescription or otherwise than by grant from the owner of the property or buildings. R.S.O. 1960, c. 214, s. 35.

36. If at the time at which the right of a person to make an entry or distress, or to bring an action to recover any land or rent, first accrues, as herein mentioned, such person is under the disability of infancy, mental deficiency, mental incompetency or unsoundness of mind, such person, or the person claiming through him, notwithstanding that the period of ten years or five years, as the case may be, hereinbefore limited has expired, may make an entry or distress, or bring an action, to recover the land or rent at any time within five years next after the time at which the person to whom the right first accrued ceased to be under any such disability, or died, whichever of those two events first happened. R.S.O. 1960, c. 214, s. 36.

Persons under disability at the time when the right of action accrues

37. No entry, distress or action, shall be made or brought by any person, who, at the time at which his right to make any entry or distress, or to bring an action, to recover any land or rent first accrued was under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within twenty years next after the time at which the right first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of the twenty years, or although the term of five years from the time at which he ceased to be under any such disability or died, may not have expired. R.S.O. 1960, c. 214, s. 37.

Utmost allowance for disabilities

38. Where a person is under any of the disabilities hereinbefore mentioned, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent first accrues, and dies without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover the land or rent beyond the period of ten years next after the right of such person to make an entry or distress, or to bring an action to recover the land or rent, first accrued or the period of five years next after the time at which such person died, shall be allowed by reason of any disability of any other person. R.S.O. 1960, c. 214, s. 38.

Succession of disabilities

39. The time during which any person otherwise capable of resisting any claim to any of the matters mentioned in sections 30 to 35, is an infant, mentally defective person, mentally incompetent person, of unsound mind, or tenant for life, or during which any action has been pending and has been diligently prosecuted, shall be excluded in the computation of the period mentioned in such sections, except only in cases where the right or claim is thereby declared to be absolute and indefeasible. R.S.O. 1960, c. 214, s. 39.

Persons under disability when right accrues

Exclusion of
terms of
years, etc.
from com-
putation in
certain cases

40. Where any land or water upon, over or from which any such way or other easement, water course or use of water has been enjoyed or derived, has been held under or by virtue of any term of life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before-mentioned during the continuance of such term shall be excluded in the computation of the period of forty years mentioned in section 31, if the claim is, within three years next after the end or sooner determination of such term, resisted by any person entitled to any reversion expectant on the determination thereof. R.S.O. 1960, c. 214, s. 40.

Exception as
to lands of
the Crown
not duly
surveyed
and laid
out

41. Nothing in sections 30 to 35 supports or maintains any claim to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or to any way or other easement, or to any water course or the use of any water to be enjoyed or derived upon, over or from any land or water of the Crown, unless the land, way, easement, water course or other matter lies and is situate within the limits of some town or township, or other parcel or tract of land duly surveyed and laid out by authority of the Crown. R.S.O. 1960, c. 214, s. 41.

PART II

TRUSTS AND TRUSTEES

Application
of Part II

42. This Part applies to a trust created by an instrument or an Act of the Legislature heretofore or hereafter executed or passed. R.S.O. 1960, c. 214, s. 42.

Interpre-
tation

43.—(1) In this section, “trustee” includes an executor, an administrator, a trustee whose trust arises by construction or implication of law as well as an express trustee, and a joint trustee.

Actions
against
trustees

(2) In an action against a trustee or a person claiming through him, except where the claim is founded upon a fraud or fraudulent breach of trust to which the trustee was party or privy, or is to recover trust property or the proceeds thereof, still retained by the trustee, or previously received by the trustee and converted to his use, the following paragraphs apply:

1. All rights and privileges conferred by any statute of limitations shall be enjoyed in the like manner and to the like extent as they would have been enjoyed in such action if the trustee or person claiming through him had not been a trustee or person claiming through a trustee.
2. If the action is brought to recover money or other property and is one to which no existing statute of

limitations applies, the trustee or person claiming through him is entitled to the benefit of, and is at liberty to plead, the lapse of time as a bar to such action in the like manner and to the like extent as if the claim had been against him in an action of debt for money had and received; but so nevertheless that the statute shall run against a married woman entitled in possession for her separate use, whether with or without restraint upon anticipation, but shall not begin to run against any beneficiary unless and until the interest of such beneficiary becomes an interest in possession.

(3) No beneficiary, as against whom there would be a good defence by virtue of this section, shall derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought the action and this section had been pleaded. R.S.O. 1960, c. 214, s. 43.

Effect of judgment upon rights of beneficiaries

44.—(1) Where land or rent is vested in a trustee upon an express trust, the right of the *cestui que trust* or a person claiming through him to bring an action against the trustee or a person claiming through him to recover the land or rent, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which the land or rent has been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him.

When right accrues in case of express trust

(2) Subject to section 43, no claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any statute of limitations. R.S.O. 1960, c. 214, s. 44.

Claim of *cestui que trust* against trustee

PART III

PERSONAL ACTIONS

45.—(1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned:

Limitation of time for commencing particular actions

- (a) an action for rent, upon an indenture of demise,
- (b) an action upon a bond, or other specialty, except upon a covenant contained in an indenture of mortgage made on or after the 1st day of July, 1894,
- (c) an action upon a judgment or recognizance,

within twenty years after the cause of action arose;

- (d) an action upon an award where the submission is not by specialty,
- (e) an action for an escape,
- (f) an action for money levied on execution, or
- (g) an action for trespass to goods or land, simple contract or debt grounded upon any lending or contract without specialty, debt for arrears of rent, detinue, replevin or upon the case other than for slander,

within six years after the cause of action arose;

- || (h) an action for a penalty, damages, or a sum of money given by any statute to the Crown or the party aggrieved, within two years after the cause of action arose; ||
- || (i) an action upon the case for words, within two years after the words spoken; ||
- (j) an action for assault, battery, wounding or imprisonment, within four years after the cause of action arose;
- (k) an action upon a covenant contained in an indenture of mortgage or any other instrument made on or after the 1st day of July, 1894, to repay the whole or part of any moneys secured by a mortgage, within ten years after the cause of action arose or within ten years after the date upon which the person liable on the covenant conveyed or transferred his interest in the mortgaged lands, whichever is later in point of time;
- (l) an action by a mortgagee against a grantee of the equity of redemption under section 19 of *The Mortgages Act*, within ten years after the cause of action arose;
- || (m) an action for a penalty imposed by any statute brought by any informer suing for himself alone, or for the Crown as well as himself, or by any person authorized to sue for the same, not being the person aggrieved, within one year after the cause of action arose. ||

R.S.O. 1970,
c. 279

Where time
specially
limited

(2) Nothing in this section extends to any action where the time for bringing the action is by any statute specially limited.
R.S.O. 1960, c. 214, s. 45.

Actions of
account,
etc.

46. Every action of account, or for not accounting, or for such accounts as concerns the trade of merchandise between merchant and merchant, their factors and servants, shall be commenced within six years after the cause of action arose, and no claim in respect of a matter that arose more than six years before the commencement of the action is enforceable by action by reason only of some other matter of claim comprised in the same account having arisen within six years next before the commencement of the action. R.S.O. 1960, c. 214, s. 46.

47. Where a person entitled to bring an action mentioned in section 45 or 46 is at the time the cause of action accrues an infant, mental defective, mental incompetent or of unsound mind, the period within which the action may be brought shall be reckoned from the date when such person became of full age or of sound mind. R.S.O. 1960, c. 214, s. 47.

In case of
disability
of plaintiff

48. If a person against whom a cause of action mentioned in section 45 or 46 accrues is at such time out of Ontario, the person entitled to the cause of action may bring the action within such times as are before limited after the return of the absent person to Ontario. R.S.O. 1960, c. 214, s. 48.

Non-
resident
defendants

49.—(1) Where a person has any such cause of action against joint debtors or joint contractors, he is not entitled to any time within which to commence such action against any one of them who was in Ontario at the time the cause of action accrued, by reason only that some other of them was, at the time the cause of action accrued, out of Ontario.

Where some
joint debtors
have been
within and
some
without
Ontario

(2) The person having such cause of action shall not be barred from commencing an action against a joint debtor or joint contractor who was out of Ontario at the time the cause of action accrued, after his return to Ontario, by reason only that judgment has been already recovered against a joint debtor or joint contractor who was at such time in Ontario. R.S.O. 1960, c. 214, s. 49.

Effect of
recovery
against one
joint debtor

50.—(1) Where an acknowledgment in writing, signed by the principal party or his agent, is made by a person liable upon an indenture, specialty, judgment or recognizance, or where an acknowledgment is made by such person by part payment, or part satisfaction, on account of any principal or interest due on the indenture, specialty, judgment or recognizance, the person entitled may bring an action for the money remaining unpaid and so acknowledged to be due, within twenty years, or, in the cases mentioned in clause *k* of subsection 1 of section 45, within ten years after the acknowledgment in writing, or part payment, or part satisfaction, or where the person entitled is, at the time of the acknowledgment, under disability as aforesaid, or the person making the acknowledgment is, at the time of making it, out of Ontario, then within twenty years, or in the cases aforesaid within ten years, after the disability has ceased, or the person has returned, as the case may be.

Effect of
written
acknowledgment or
part
payment

(2) In the case of an action upon a covenant contained in an indenture of mortgage made on or after the 1st day of July, 1939, or upon a covenant contained in an instrument made on or after

Application
of section

the 1st day of July, 1939, to pay the whole or part of any moneys secured by a mortgage, this section does not apply to part payments on the mortgage made by a person other than the person liable on the covenant or to acknowledgments in writing signed by any person other than the person liable on the covenant. R.S.O. 1960, c. 214, s. 50.

Promise by
words only

51.—(1) No acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take out of the operation of this Part, any case falling within its provisions respecting actions,

- (a) of account and upon the case;
- (b) on simple contract or of debt grounded upon any lending or contract without specialty; and
- (c) of debt for arrears of rent,

or to deprive any party of the benefit thereof, unless the acknowledgment or promise is made or contained by or in some writing signed by the party chargeable thereby, or by his agent duly authorized to make the acknowledgment or promise.

Effect of
payment of
principal or
interest

(2) Nothing in this section alters, takes away or lessens the effect of any payment of any principal or interest by any person. R.S.O. 1960, c. 214, s. 51.

Two or
more joint
contractors,
obligors,
covenantors,
or
executors

52. Where there are two or more joint debtors or joint contractors, or joint obligors, or covenantors, or executors or administrators of any debtor or contractor, no such joint debtor, joint contractor, joint obligor, or covenantor, or executor or administrator loses the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed or by reason of any payment of any principal or interest made by any other or others of them. R.S.O. 1960, c. 214, s. 52.

Judgment
where plain-
tiff is barred
as to one or
more de-
fendants,
but not as
to all

53. In actions commenced against two or more such joint debtors, joint contractors, executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act, as to one or more of such joint debtors, joint contractors, or executors or administrators is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he recovers, and for the other defendant or defendants against the plaintiff. R.S.O. 1960, c. 214, s. 53.

54. No endorsement or memorandum of any payment written or made upon a promissory note, bill of exchange or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Act. R.S.O. 1960, c. 214, s. 54.

Effect of
endorse-
ment, etc.
made by the
payee

55. This Part applies to the case of any claim of the nature hereinbefore mentioned, alleged by way of set-off on the part of any defendant. R.S.O. 1960, c. 214, s. 55

Case of
set-off

CHAPTER 247

The Limited Partnerships Act

1. A limited partnership for the transaction of any brokerage, financial, mercantile, mechanical, manufacturing or other business in Ontario, except banking, the construction or operation of railways and the business of insurance, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities mentioned in this Act. R.S.O. 1960, c. 215, s. 1.

Formation
of limited
partner-
ships

2. The partnership may consist of one or more persons, who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called limited partners. R.S.O. 1960, c. 215, s. 2.

Of whom
to consist

3. General partners are jointly and severally responsible as general partners are by law, but limited partners are not liable for the debts of the partnership beyond the amounts by them contributed to the capital. R.S.O. 1960, c. 215, s. 3.

Liability of
general and
limited
partners

4. The general partners only shall be authorized to transact business and sign for the partnership, and to bind it. R.S.O. 1960, c. 215, s. 4.

General
partners
only to
transact
business etc.

5. The persons desirous of forming such a partnership shall make and each of them shall sign a certificate in Form 1, which shall contain,

Certificate

- (a) the name under which the partnership business is to be carried on;
 - (b) the general nature of the business intended to be carried on;
 - (c) the names of all the general and limited partners, distinguishing which are general and which are limited partners, and their usual places of residence;
 - (d) the amount of capital that each limited partner has contributed;
 - (e) the time when the partnership is to commence and the time at which it is to terminate; and
 - (f) the principal place of business of the partnership.
- R.S.O. 1960, c. 215, s. 5.

Execution

6. The certificate shall be signed by the persons forming the partnership before a notary public who shall certify to its execution. R.S.O. 1960, c. 215, s. 6.

Filing and
recording
R.S.O. 1970,
c. 340

7. The provisions of *The Partnerships Registration Act* and the regulations thereunder, applying to the filing and recording of declarations under that Act, apply to certificates under this Act. 1965, c. 57, s. 1.

Declaration
not required
where certi-
ficate filed

8. Where a certificate is filed under this Act, a declaration is not required to be filed under *The Partnerships Registration Act*. R.S.O. 1960, c. 215, s. 8.

Fees

9. The registrar is entitled to receive for filing and recording the certificate and for searches the same fees as those provided in section 11 of *The Partnerships Registration Act*. R.S.O. 1960, c. 215, s. 9.

Partnership
not formed
until certi-
ficate filed

10. No such partnership shall be deemed to have been formed until the certificate has been made, certified and filed, and if any false statement is made in the certificate, all the members of the partnership are liable for all the engagements thereof as general partners. R.S.O. 1960, c. 215, s. 10.

Certificates
of renewal
or continu-
ance

11. Every renewal or continuance of a partnership beyond the time originally fixed for its duration shall be certified, filed and recorded in the manner required for its original formation, and every partnership otherwise renewed or continued shall be deemed a general partnership. R.S.O. 1960, c. 215, s. 11.

What altera-
tions to be
deemed a
dissolution

12. Every alteration made in the partnership name, in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other manner specified in the original certificate shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after any such alteration has been made shall be deemed a general partnership unless renewed as a limited partnership according to section 11. R.S.O. 1960, c. 215, s. 12.

Partnership
name

13. The business of the partnership shall be conducted under a name in which the names of one or more of the general partners shall be used, and unless any limited partner whose name is used in the partnership name is clearly designated as a limited partner in a line immediately beneath the name of the partnership upon letterheads, confirmations to customers and statements of account, he shall be deemed a general partner. R.S.O. 1960, c. 215, s. 13.

14. No part of the sum that a limited partner has contributed to the capital shall be withdrawn by him, or paid or transferred to him as dividends, profits or otherwise, during the continuance of the partnership, but any partner may annually receive interest at a rate not exceeding 5 per cent per annum on the sum so contributed by him if the payment of such interest does not reduce the original amount of the capital, and if after the payment of such interest any profits remain to be divided he may also receive his share of such profits. R.S.O. 1960, c. 215, s. 14.

Restrictions upon withdrawal of capital of limited partners

15. If by the payment of interest or profits to a limited partner the original capital has been reduced, he is liable to restore the amount by which his share of the capital has been so reduced with interest. R.S.O. 1960, c. 215, s. 15.

When limited partner liable to refund

16. A limited partner may from time to time examine into the state and progress of the partnership business, and may advise as to its management, and he only becomes liable as a general partner if, in addition to the foregoing, he takes part in the control of the business. R.S.O. 1960, c. 215, s. 16.

Rights and liabilities of limited partners

17. The general partners are liable to account to each other and to the limited partners for their management of the business in like manner as other partners. R.S.O. 1960, c. 215, s. 17.

General partners liable to account

18. In case of the insolvency or bankruptcy of the partnership, a limited partner shall not, under any circumstances, be allowed to claim as a creditor until the claims of all the other creditors of the partnership have been satisfied. R.S.O. 1960, c. 215, s. 18.

Creditors preferred to limited partners

19. No dissolution of a limited partnership by the acts of the parties shall take place before the time specified in the certificate of its formation or of its renewal until a notice of the dissolution has been filed in the office in which the original certificate was filed and has been published once in each week, for three weeks, in a newspaper published in the county or district where the partnership has its principal place of business and for the same time in *The Ontario Gazette*. R.S.O. 1960, c. 215, s. 19.

No premature dissolution without notice, etc.

FORM 1

(Section 5)

CERTIFICATE OF LIMITED PARTNERSHIP

We, the undersigned, do hereby certify that we have entered into partnership under the name of *(B. D. & Co.)* as *(Grocers and Commission Merchants)*, which firm consists of *(A. B.)* residing usually at as general partners; and *(C. D.)* residing usually at as general partners; and *(E. F.)*, residing usually at and *(G. H.)*, residing usually at as limited partners. The said *(E. F.)* having contributed \$..... and the said *(G. H.)* \$..... to the capital of the partnership.

The principal place of business of the partnership is at

The partnership is to commence on the day of 19...., and is to terminate on the day of 19....

Dated this day of 19....
(Signed) *A. B.*
C. D.
E. F.
G. H.

Signed in the presence of me,
L. M.,
Notary Public.

R.S.O. 1960, c. 215, Form 1.

CHAPTER 248

The Line Fences Act

1.—(1) In this Act, Interpretation

- (a) “judge” means a judge of the county or district court;
- (b) “occupied lands” does not include so much of a lot as is unenclosed, although a part of it is enclosed and in actual use and occupation.

(2) Where, within the meaning of section 3, there is a dispute Idem between owners or occupants of lands situate in different local municipalities,

- (a) “fence-viewers” means two fence-viewers of the municipality in which is situate the land of the owner or occupant notified under clause *a* of section 3, and one fence-viewer of the municipality in which is situate the land of the person giving the notice except that in case of a disagreement within the meaning of clause *d* of that section “fence-viewers” means fence-viewers from either or both municipalities;
- (b) “in which the land is situate” or “in which the land lies” means in which is situate the land of the owner or occupant so notified under clause *a* of section 3. R.S.O. 1960, c. 216, s. 1 (1, 2).

(3) This Act applies *mutatis mutandis* to unoccupied land as well as to occupied land in any local municipality the council of which has passed a by-law declaring that this Act so applies. 1968, c. 65, s. 1. By-law making Act apply to unoccupied land

2.—(1) Owners of adjoining occupied lands shall make, keep up and repair a just proportion of the fence that marks the boundary between them or, if there is no fence, they shall make and keep up and repair the same proportion of a fence to mark such boundary. Duties of owners of adjoining occupied lands

(2) Owners of unoccupied land that adjoins occupied land, upon the unoccupied land becoming occupied, are liable to keep up and repair such proportion, and in that respect are in the same position as if their land had been occupied at the time of the original fencing, and are liable to the compulsory proceedings hereinafter mentioned. Unoccupied land

Unopened
road
allowance

(3) Where there is an unopened road allowance lying between occupied lands and not enclosed by a lawful fence, it is the duty of the fence-viewers, when called upon, to divide the road allowance equally between the owners of the occupied lands, and to require each owner to make, keep up and maintain a just proportion of fence to mark the division line, but nothing in this section in any way affects or interferes with the rights of the municipality in the road allowance or is deemed to confer any title therein upon such owners or either of them. R.S.O. 1960, c. 216, s. 2.

Duties of
owner of
former
railway
right of way

3. Where land that was formerly used as part of a line of railway is conveyed in its entire width by the railway company,

- (a) to the owner of abutting land, such owner, his heirs, executors and assigns, are responsible for making, keeping up and repairing the fence that marks the lateral boundary between the coveyed lands and the lands of the adjoining owner for a period of ten years from the date of the conveyance and thereafter section 3 applies; or
- (b) to a person who is not the owner of abutting land, such person, his heirs, executors and assigns, are responsible for making, keeping up and repairing the fences that mark the lateral boundaries of such land. 1968, c. 65, s. 2.

Disputes
between
owners

4. Where an owner of land desires fence-viewers to view and arbitrate as to what portion of such fence each owner shall make, keep up and repair, or as to the condition of an existing line fence and as to repairs being done to it,

- (a) either owner may notify in Form 1 the other owner or the occupant of the land of the other owner that he will, on a day named, not less than one week from the service of the notice, cause three fence-viewers of the locality to arbitrate in the premises;
- (b) the owner so notifying shall also notify in Form 2 the fence-viewers not less than one week before their services are required;
- (c) the notices in both cases shall be in writing signed by the person notifying, and shall specify the time and place of meeting for the arbitration, and the notice to an owner may be served by leaving it at the place of abode of the owner or occupant with some grown-up person residing thereat, or, in case of the land being untenanted, by leaving the notice with any agent of the owner;
- (d) an owner notified may, within the week, object to any or all the fence-viewers notified, and in case of disagreement, the judge shall name the fence-viewers who are to arbitrate. R.S.O. 1960, c. 216, s. 3.

5. An occupant who is not the owner so notified shall immediately notify the owner, and, if he neglects so to do, is liable for all damage caused to the owner by such neglect. R.S.O. 1960, c. 216, s. 4. Duty and liability of occupants as to notifying owners

6. The fence-viewers shall examine the premises and, if required by either party, shall hear evidence and may examine the parties and their witnesses on oath. R.S.O. 1960, c. 216, s. 5. Duties and powers of fence-viewers

7.—(1) The fence-viewers shall make an award in Form 3, signed by any two of them, respecting the matters in dispute and the award shall specify the locality, quantity, description and the lowest price of the fence awarded to be made and the time within which the work shall be done, and shall state by which of the parties or in what proportion the costs of the proceedings are to be paid. Award of fence-viewers

(2) In making the award, the fence-viewers shall have regard to the nature of the fences in use in the locality, the pecuniary circumstances of the parties and the suitability of the fence to the wants of each of them. Character of fence

(3) Where, from the formation of the ground by reason of streams or other causes, it is, in the opinion of the fence-viewers, impracticable to locate the fence upon the line between the lands of the parties, they may locate it either wholly or partly on the land of either of the parties where it seems to be most convenient, but such location does not in any way affect the title to the land. Location of fence

(4) The fence-viewers may employ an Ontario land surveyor and have the locality described by metes and bounds. R.S.O. 1960, c. 216, s. 6. Employment of surveyor

8. The award shall be deposited in the office of the clerk of the municipality in which the land of the owner who initiated the proceedings is situate, and may be proved by a copy certified by the clerk, and notice in writing of its being made shall be given by the clerk to all parties interested. R.S.O. 1960, c. 216, s. 7. Deposit of award, etc.

9. The judge may, on application of either party, extend the time for making the fence as he considers just. R.S.O. 1960, c. 216, s. 8. Extending time for making fence

10.—(1) The party desiring to enforce the award shall serve upon the owner or occupant of the adjoining land a notice in writing requiring him to obey the award, and if it is not obeyed within one month after service of the notice may do the work that the award directs, and may immediately take proceedings to recover its value and the costs from the owner by action in the small claims court of any division in which any part of the land affected by the award is situate. Award, how enforced

Collection
of debt and
costs as
taxes

(2) Instead of requiring execution to be issued upon the judgment so recovered, the party entitled to enforce the judgment may obtain a certificate from the clerk of the small claims court of the amount due for debt and costs in respect of the judgment, and is entitled, upon lodging the certificate with the clerk of the municipality, to have the amount so certified placed upon the collector's roll, and the amount may be collected in the same manner as taxes are collected, and is until so collected or otherwise paid a charge upon the land liable for the payment thereof, and in such case execution shall not thereafter issue on the judgment. R.S.O. 1960, c. 216, s. 9.

Award to be
a charge on
land, if
registered

11.—(1) The award may be registered in the proper registry or land titles office and when registered is a charge upon the land affected by it.

How
registered

(2) Registration may be by deposit of a duplicate of the award or of a copy, verified by affidavit, together with an affidavit of the execution of the award. R.S.O. 1960, c. 216, s. 10.

Appeals

12.—(1) Any person dissatisfied with the award may appeal therefrom to the judge.

Notice of
appeal

(2) The appellant shall, within one week from the time when he was notified of the award, serve upon the fence-viewers and all parties interested a notice in writing of his intention to appeal, and the notice may be served as other notices mentioned in this Act.

To clerk

(3) The appellant shall also deliver a copy of the notice to the clerk of the small claims court of the division in which the land lies, and the clerk shall immediately notify the judge of the appeal and the judge shall fix a time and place for the hearing of the appeal and shall communicate the same to the clerk, and, if he thinks fit, may order such sum of money to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal.

Notice of
hearing

(4) The clerk shall notify the fence-viewers and all parties interested of the time and place of hearing, in the manner hereinbefore provided for the service of other notices under this Act.

Powers of
judge

(5) The judge shall hear and determine the appeal and may set aside, alter or affirm the award, or correct any error therein, and may examine the parties and their witnesses on oath, and may inspect the premises and may order payment of costs by either party and fix the amount of the costs.

Decision of
judge to
be final

(6) The decision of the judge is final and the award, as altered or affirmed, shall be dealt with in all respects as it would have been if it had not been appealed from.

(7) The practice and procedure on the appeal, including the fees payable for subpoenas and the conduct money of witnesses, shall be the same, as nearly as may be, as in the case of a suit in the small claims court. Procedure

(8) Where the award affects land in two or more counties or districts, the appeal may be to the judge of the county or district in which any part of the land is situate. R.S.O. 1960, c. 216, s. 11. Where land in different counties

13.—(1) Each fence-viewer is entitled to \$5 or such larger amount, not exceeding \$10, as the council by by-law may fix for every day's work under this Act, and an Ontario land surveyor and a witness is entitled to the same compensation as if subpoenaed in a small claims court. Fees to fence-viewers, surveyors and witnesses

(2) The corporation of the municipality shall, at the expiration of the time for appeal or after appeal, as the case may be, pay to the fence-viewers their fees, and shall, unless the fees are forthwith repaid by the person adjudged to pay the fees, place the amount upon the collector's roll as a charge against such person, and the amount may be collected in the same manner as municipal taxes. R.S.O. 1960, c. 216, s. 12. Payment of fence-viewers' fees

14.—(1) If the judge inspects the premises or hears the appeal at a place other than the county or district town, he is entitled to be paid the actual expenses incurred by him and, in the order setting aside, altering or affirming the award, shall fix the amount of such expenses and name the person by whom the amount is to be paid. Judge's expenses

(2) The judge shall be paid by the corporation of the municipality the amount so fixed, and it shall be collected in the same manner as is provided in respect of the fence-viewer's fees. R.S.O. 1960, c. 216, s. 13. Municipality to pay expenses and collect amount

15. Any agreement in writing in Form 4 between owners respecting a line fence may be filed or registered and enforced as if it was an award of fence-viewers. R.S.O. 1960, c. 216, s. 14. Enforcement of agreements

16.—(1) The owner of the whole or part of a line fence that forms part of the fence enclosing the occupied or improved land of another person shall not take down or remove any part of such fence, Certain fences removable on notice

- (a) without giving at least six months previous notice of his intention to the owner or occupant of the adjacent enclosure unless the last-mentioned owner or occupant, after demand made upon him in writing by the owner of the fence, refuses to pay therefor the sum determined as provided by section 7, or

- (b) if such owner or occupant will pay to the owner of the fence or part thereof such sum as the fence-viewers may award to be paid therefor under section 7.

Other provisions of Act to apply

(2) The provisions of this Act for determining disputes between the owners of adjoining occupied lands, the manner of enforcing awards and appeals therefrom and the forms and all other provisions of this Act, so far as applicable, apply to proceedings under this section. R.S.O. 1960, c. 216, s. 15.

Where tree thrown down across a line fence

17.—(1) If any tree is thrown down by accident or otherwise across a line fence, or in any way in and upon the land adjoining that upon which the tree stood, causing damage to the crop upon such land or to such fence, the owner or occupant of the land on which the tree stood shall forthwith remove it and also forthwith repair the fence and otherwise make good any damage caused by the falling of the tree.

When injured party may remove tree

(2) On his neglect or refusal so to do for forty-eight hours after notice in writing to remove the tree, the injured person may remove it in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain the tree to remunerate him for such removal, and may also recover any further amount of damages beyond the value of the tree from the person liable to pay it.

Right of entry

(3) For the purpose of such removal, the owner of the tree may enter into and upon the adjoining land doing no unnecessary spoil or waste.

Fence-viewers to decide disputes

(4) All questions arising under this section shall be adjusted by three fence-viewers of the municipality and the decision of any two of whom is binding upon the parties. R.S.O. 1960, c. 216, s. 16.

FORM 1

(Section 4)

NOTICE TO OPPOSITE PARTY

Take notice that....., and
, three fence-viewers of this locality, will attend
 on the..... day of, 19...., at the
 hour of, to view and arbitrate upon the line fence
 in dispute between our lands, being lots (or parts of lots) *one* and *two* in
 the..... concession of the township of in
 the county of

Dated the..... day of, 19....

A. B.,
 Owner of lot 1.

To C. D.,
 Owner of lot 2.

R.S.O. 1960, c. 216, Form 1.

FORM 2

(Section 4)

NOTICE TO FENCE-VIEWERS

Take notice that I require you to attend at..... on the
 day of, 19...., at the hour of
, to view and arbitrate on the line fence between my land and
 that of, being lots (or parts of lots) Nos.
one and *two* in the..... concession of the township of
 in the county of

Dated the..... day of, 19....

A. B.,
 Owner of lot 1.

To
 Fence-viewers.

R.S.O. 1960, c. 216, Form 2.

FORM 3

(Section 7)

AWARD

We, the fence-viewers of (*name of the locality*), having been nominated to view and arbitrate upon the line fence between

..... of (*name and description of owner who notified*) and (*name and description of owner notified*), which fence is to be made and maintained between (*describe land*), and having examined the land and duly acted according to *The Line Fences Act*, award as follows: That part of the line that commences at and ends at (*describe the points*) shall be fenced, and the fence maintained by, and that part thereof that commences at and ends at (*describe the points*) shall be fenced, and the fence maintained by The fence shall be of the following description (*state the kind of fence, height, material, etc.*) and shall cost at least per rod. The work shall be commenced within days and completed within days from this date, and the costs shall be paid by (*state by whom to be paid; if by both, in what proportion*).

Dated the day of, 19....

(Signatures of fence-viewers)

Witnesses:

R.S.O. 1960, c. 216, Form 3.

FORM 4

(Section 15)

AGREEMENT

We, and, owners respectively of lots (*or parts of lots*) *one* and *two* in the concession of the township of, in the county of, do agree that the line fence that divides our lands shall be made and maintained by us as follows: (*follow the same form as award*)

Dated the day of, 19....

(Signatures of parties)

Witnesses:

R.S.O. 1960, c. 216, Form 4.

CHAPTER 249

The Liquor Control Act

1.—(1) In this Act,

Interpre-
tation

1. “alcohol” means a product of fermentation or distillation of grains, fruits or other agricultural products rectified once or more than once whatever may be the origin thereof, and includes synthetic ethyl alcohol;
2. “beer” means any liquor obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;
3. “Board” means the Liquor Control Board of Ontario;
4. “dentist” means a member of the Royal College of Dental Surgeons of Ontario registered under *The Dentistry Act* and holding a certificate of licence to practise dentistry; R.S.O. 1970,
c. 108
5. “druggist” means a pharmaceutical chemist registered and entitled to practise under *The Pharmacy Act*; R.S.O. 1970,
c. 348
6. “Government store” means a store established or authorized under this Act by the Board for the sale of liquor, for the sale of Ontario wine only or for the sale of beer only, and includes a store of the Brewers’ Warehousing Company Limited and a store of a producer of Ontario wine;
7. “interdicted person” means a person to whom the sale of liquor is prohibited by order under this Act;
8. “judge” means the judge, junior judge or acting judge of a county or district court;
9. “justice” means a provincial judge and, where no provincial judge is available, includes two or more justices of the peace or any person having the power or authority of two or more justices;
10. “licence” means a licence issued by the Board to a brewer, distiller or producer of Ontario wine under this Act or the regulations;
11. “liquor” means any alcohol, any alcoholic, spirituous, vinous, fermented malt or other liquid, any combination

of liquids or mixed liquids a part of which is alcoholic, spirituous, vinous or fermented, any drink or drinkable liquid containing alcohol, and includes wine, Ontario wine, and beer;

12. "Minister" means the member of the Executive Council to whom for the time being is assigned the supervision of the administration of this Act and the regulations;
13. "Ontario wine" means,
 - i. wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof, and includes Ontario wine to which has been added herbs, water, honey, sugar or the distillate of Ontario wine, or
 - ii. wine produced by the alcoholic fermentation of Ontario honey with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine;
14. "package" means a container, bottle, vessel or other receptacle used for holding liquor;
15. "permit" means a permit for the purchase of liquor, beer or wine issued by the Board;
16. "physician" means a legally qualified medical practitioner registered under *The Medical Act*;
17. "prescription" means a memorandum in the form prescribed by the regulations, signed by a physician, and given by him to a patient for the purpose of obtaining liquor pursuant to this Act for use for medicinal purposes only;
18. "public place" means a place, building or convenience to which the public has, or is permitted to have, access, any highway, street, lane, park or place of public resort or amusement, and includes premises licensed under *The Liquor Licence Act*, except clubs;
19. "regulations" means the regulations made under this Act;
20. "residence" means,
 - i. a building or part of a building that is *bona fide* and actually occupied and used by the owner, lessee or tenant solely as a private dwelling together with the lands and buildings appurtenant thereto that in fact are normally and reasonably used as part of the living accommodation,
 - ii. a private guest room in a hotel or motel that is *bona fide* and actually occupied as such by a guest of the hotel or motel,

R.S.O. 1970,
c. 268

R.S.O. 1970,
c. 250

- iii. a trailer or tent that is *bona fide* and actually used by the owner, lessee or tenant as a private dwelling, together with the land immediately appurtenant thereto that in fact is reasonably used as part of the living accommodation, or
- iv. a vessel that is *bona fide* and actually used by the owner, lessee or tenant as a private dwelling;
- 21. "sale" and "sell" include exchange, barter and traffic, and also include selling, supplying or distributing, by any means whatsoever, of liquor or of any liquid known or described as beer by any partnership, or by any society, association or club, whether incorporated or unincorporated, and whether heretofore or hereafter formed or incorporated, to any partnership, society, association or club or to any member thereof;
- 22. "spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances in solution;
- 23. "veterinary" means a person authorized to practise veterinary science under *The Veterinarians Act*; R.S.O. 1970,
c. 480
- 24. "wine" means any liquor obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk. R.S.O. 1960, c. 217, s. 1
(1); 1961-62, c. 72, s. 1; 1965, c. 58, s. 1.

(2) Liquor shall be deemed to be intoxicating for the purposes of this Act. Liquor
deemed
intoxicating
R.S.O. 1960, c. 217, s. 1 (2).

ADMINISTRATION

2. The Liquor Control Board of Ontario shall consist of one, L.C.B.O.
two or three members as determined from time to time by the Lieutenant Governor in Council, with the powers and duties herein specified, and the administration of this Act and the regulations, including the general control, management and supervision of all Government liquor stores is vested in the Board. R.S.O. 1960, c. 217, s. 2.

3. The Lieutenant Governor in Council may designate one of the members of the Board to be chairman thereof who shall be known as the Chief Commissioner, and may designate any other member or any officer of the Board to be Deputy Chief Commissioner, and in case of a vacancy in the office, or of sickness or inability to act of the Chief Commissioner, the Deputy Chief Commissioner has and may exercise and perform all the powers, duties and functions of the Chief Commissioner. Chief
Commis-
sioner
R.S.O. 1960, c. 217, s. 3.

Seat in
Assembly
not vacated
R.S.O. 1970,
c. 240

4. Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the chairman or of any other member of the Board, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. R.S.O. 1960, c. 217, s. 4.

Appoint-
ment,
quorum and
salaries of
the Board

5. The Lieutenant Governor in Council shall,

- (a) appoint the member or members of the Board;
- (b) specify the member or members that constitutes a quorum of the Board;
- (c) fix the salaries of the members of the Board. R.S.O. 1960, c. 217, s. 5.

Principal
office

6. The principal office of the Board shall be at Toronto. R.S.O. 1960, c. 217, s. 6.

Chief Com-
missioner's
duties and
powers

7. The Chief Commissioner shall have charge of the officers, inspectors, clerks and servants of the Board who shall be responsible to him in the first instance. R.S.O. 1960, c. 217, s. 7.

Power and
duties of
Board:
import
and sale

8.—(1) It is the duty of the Board and it has power,

control

location
of stores
R.S.O. 1970,
c. 250

provision
for ware-
houses

issue, etc.,
permits

leasing
premises,
etc.

acquisition
of plant, etc.

- (a) to buy, import and have in its possession for sale, and to sell, liquor in the manner set forth in this Act and the regulations;
- (b) to control the possession, sale, consumption, transportation and delivery of liquor in accordance with this Act and the regulations;
- (c) subject to *The Liquor Licence Act*, to determine the municipalities within which Government stores shall be established or authorized and the location of such stores in such municipalities;
- (d) to make provision for the maintenance of warehouses for beer, wine or liquor and to control the keeping in and delivery from any such warehouses;
- (e) to issue, refuse, suspend or cancel permits for the purchase of liquor;
- (f) to lease any land or building required for the purposes of this Act and the regulations, and to erect or cause to be erected any building required for the purposes of this Act and the regulations;
- (g) to purchase or lease or acquire the use by any manner whatsoever of any plant or equipment that is considered necessary or useful in carrying into effect the object and purposes of this Act and the regulations;

- (h) to engage the services of experts and persons engaged in the practice of any profession where it is considered expedient; expert advice
- (i) to appoint officials to issue and grant permits under this Act and the regulations; appointment of officials to issue permits
- (j) to determine the nature, form and capacity of all packages to be used for containing liquor to be kept or sold under this Act and the regulations; packages
- (k) to appoint one or more vendors of sacramental wines in any municipality and to regulate or restrict the keeping for sale, sale and delivery of such wine; vendors of sacramental wines
- (l) without in any way limiting or being limited by the foregoing clauses, generally to do all such things as are considered necessary or advisable by the Board for the purpose of carrying into effect this Act and the regulations. R.S.O. 1960, c. 217, s. 8 (1); 1965, c. 58, s. 2. general

(2) The Board may by order exempt from this Act any product or class of product that contains alcohol and that is not, in the opinion of the Board, what is commonly known as spirituous liquor, wine, Ontario wine, or beer. R.S.O. 1960, c. 217, s. 8 (2). Exemption

9.—(1) The Board, with the approval of the Lieutenant Governor in Council, may make such regulations as the Board considers necessary for carrying out this Act and for the efficient administration thereof. Regulations

(2) Without limiting the generality of subsection 1, the powers of the Board to make regulations in the manner set out in that subsection extend to and include, Idem

- (a) regulating the equipment and management of Government stores and warehouses in which liquor may be kept or sold; regulating equipment
- (b) prescribing the duties of the officers, inspectors, clerks and servants of the Board and regulating their conduct while in the discharge of their duties; duties of employees
- (c) governing the purchase of liquor and the furnishing of liquor to Government stores; purchase of liquor
- (d) determining the classes, varieties and brands of liquor to be kept for sale at Government stores; varieties of liquor
- (e) prescribing the days and hours at which Government stores or any of them shall be kept open; hours for sale
- (f) providing for the issue and distribution of price lists showing the price to be paid for each class, variety or brand of liquor kept for sale in Government stores; price lists

- | | |
|--|---|
| books of account and records of sales | (g) prescribing the books of account to be kept by the Board showing the expenditure of the Board in the administration of this Act and the regulations and in the purchase, sale and delivery of liquor and the receipts of the Board from the sale of liquor in Government stores or from the issue of permits for the purchase of liquor; |
| official seal | (h) prescribing an official seal and official labels and determining the manner in which the seal or label shall be attached to every package of liquor sold or sealed under this Act or the regulations, including the prescribing of different official seals or different official labels for the different classes, varieties and brands of liquor; |
| forms, conditions of licences, etc. | (i) prescribing forms to be used for the purposes of this Act or the regulations and the terms and conditions in permits and licences issued under this Act or the regulations; |
| quantities of liquors, etc.
R.S.O. 1970, c. 250 | (j) prescribing the kinds and quantities of liquor that may be sold or purchased under permits or under licences under <i>The Liquor Licence Act</i> , including the quantity that may be sold or purchased at any one time or within any specified period of time and the alcoholic content of any such liquor; |
| records of purchases by holders of permits | (k) prescribing the forms of records of purchases of liquor by the holders of permits, and the reports to be made thereon to the Board, and providing for inspection of the records to be kept; |
| notices | (l) prescribing the manner of giving and serving notices required by this Act or the regulations; |
| duties of officials authorized to issue permits | (m) prescribing the duties of officials authorized to issue permits under this Act or the regulations; |
| fees | (n) prescribing the fees payable in respect of permits and licences issued under this Act, and prescribing the tax, fees and assessments payable by any brewer, distiller or producer of Ontario wine; |
| books, etc. | (o) prescribing the books, records and returns to be kept by the holder of any licence for the sale of liquor under this Act; |
| distribution and storage | (p) supervising the distribution of supplies and the manner in which liquor may be kept and stored; |
| delivery and conveyance of liquor | (q) supervising the hours and days upon which, and the manner, methods and means by which, liquor shall be delivered under this Act or the regulations and the hours and days during which, and the manner, methods and means by which liquor, under this Act or the regulations, may be lawfully conveyed and carried; |

- (r) governing the sale to and purchase by holders of licences under *The Liquor Licence Act* of liquor for sale upon premises licensed under *The Liquor Licence Act*; governing sale of liquor R.S.O. 1970, c. 250
- (s) governing the conduct, management and equipment of any premises upon which liquor may be sold under this Act or the regulations; conduct of premises
- (t) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. in general R.S.O. 1960, c. 217, s. 9; 1965, c. 58, s. 3.

10. Wherever it is provided in this Act that any act, matter or thing may be done or permitted or authorized by the regulations, or may be done in accordance with the regulations, or as provided by the regulations, the Board has the power to make regulations respecting such act, matter or thing. R.S.O. 1960, c. 217, s. 10. General

11. The Board, with the approval of the Lieutenant Governor in Council, may, Powers of Board:

- (a) purchase any land or building and equip any building required for the purposes of this Act or the regulations and, where considered necessary, purchase or acquire the whole or any portion of the output or product of any manufacturer, distiller, brewery, plant or appliance in which liquor is manufactured or produced; purchase of property and output
- (b) appoint such officers, inspectors, managers, servants and agents as the Board considers necessary in the administration of this Act and the regulations and by regulation prescribe the terms of their employment, fix their salaries or remuneration and define their respective duties and powers. R.S.O. 1960, c. 217, s. 11; 1965, c. 58, s. 4. appointment of officers and staff

12. All property, whether real or personal, all moneys acquired, administered, possessed or received by the Board and all profits earned in the administration of this Act and the regulations are the property of the Crown in right of Ontario, and all expenses, debts and liabilities incurred by the Board in connection with the administration of this Act and the regulations shall be paid by the Board from the moneys received by the Board under such administration. R.S.O. 1960, c. 217, s. 13. Payment of expenses

13.—(1) The Board shall from time to time make reports to the Lieutenant Governor in Council covering such matters in connection with the administration of this Act and the regulations as he requires, and shall make annually to the Lieutenant Governor in Council, through the Minister, a report for the twelve months ending on the 31st day of March in the year in which the report is made, which shall contain, Reports to Lieutenant Governor in Council

- (a) a statement of the nature and amount of the business transacted by the managers under this Act and the regulations during the year;
- (b) a statement of the Board's assets and liabilities, including a profit and loss account, and such other accounts and matters as are necessary to show the results of its operations for the year;
- (c) general information and remarks as to the working of this Act and the regulations;
- (d) any other information requested by the Minister. R.S.O. 1960, c. 217, s. 14 (1); 1965, c. 58, s. 6.

Report to be
presented to
Legislature

(2) Every annual report made under this section shall be laid forthwith before the Legislature, if the Legislature is then in session, or, if not then in session, shall be laid before the Legislature within fifteen days after the opening of the session following the close of the fiscal year. R.S.O. 1960, c. 217, s. 14 (2).

Payment
of salaries,
expenses
of stores

14. The Board shall make all payments necessary for its administration of this Act and the regulations, including the payment of the salaries of the members of the Board and its staff and all expenditures incurred in establishing and maintaining Government stores and in its administration of this Act and the regulations. R.S.O. 1960, c. 217, s. 17.

Moneys
from liquor
sales

15. Except at stores for the sale of beer only and stores for the sale of Ontario wine only, all moneys received from the sale of liquor at Government stores and from licence and permit fees, or otherwise arising in the administration of this Act and the regulations, shall be paid to the Board. R.S.O. 1960, c. 217, s. 18.

Fiscal year

16. The accounts of the Board shall be made up to the 31st day of March in each year, and at such other times as is determined by the Lieutenant Governor in Council, and in every case the Board shall prepare a balance sheet and statement of profit and loss. R.S.O. 1960, c. 217, s. 20; 1965, c. 58, s. 9.

Audit

17. The accounts of the Board shall be audited by the Provincial Auditor, and his report, containing such particulars as the Lieutenant Governor in Council may require, shall be made to the Lieutenant Governor in Council on or before the 1st day of January next following the close of the fiscal year for which the report is made. 1965, c. 58, s. 10.

Net profits

18. The net profits of the Board shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council may direct. R.S.O. 1960, c. 217, s. 24

19.—(1) Every action, order or decision of the Board as to any matter or thing in respect of which any power, authority or discretion is conferred on the Board under this Act or the regulations is final and shall not be questioned, reviewed or restrained by injunction, prohibition or mandamus or other process or proceeding in any court or be removed by *certiorari* or otherwise in any court, but the Board may state a case on a point of law only as provided from time to time in the *Criminal Code* (Canada). R.S.O. 1960, c. 217, s. 26 (2); 1965, c. 58, s. 13 (2).

Orders of
Board not
subject to
review

1953-54,
c. 51 (Can.)

(2) The Board may be sued and may institute or defend proceedings in any court of law or otherwise in the name of The Liquor Control Board of Ontario as fully and effectually to all intents and purposes as though the Board were incorporated under such name. R.S.O. 1960, c. 217, s. 26 (3); 1965, c. 58, s. 13 (3).

Board may
be sued and
sue

20.—(1) Every order for the purchase of liquor shall be authorized by the Chief Commissioner or Deputy Chief Commissioner and no order is valid or binding unless so authorized. R.S.O. 1960, c. 217, s. 27 (1).

Orders for
purchase of
liquor

(2) All cancellations of such orders made by the Board shall be executed in the same manner. R.S.O. 1960, c. 217, s. 27 (3); 1965, c. 58, s. 14 (2).

Cancelling
orders

21. Subject to the regulations, the Board may require the holder of a licence for the sale of liquor to give such security and to comply with such other provisions as the Board considers necessary or desirable in order to secure the due observance of this Act and the regulations. R.S.O. 1960, c. 217, s. 28.

Security for
observance
of Act

22. Notwithstanding anything in this Act or the regulations, the Board is not compellable to issue any permit or licence under this Act or the regulations, and it may refuse, suspend or cancel any such permit or licence but only after the interested person has been given an opportunity of being heard. R.S.O. 1960, c. 217, s. 29; 1965, c. 58, s. 15.

Board not
compellable
to issue
permits, etc.

ESTABLISHMENT OF GOVERNMENT STORES AND SALES UNDER PERMITS

23.—(1) Government stores may be established by the Board in accordance with this Act and the regulations and *The Liquor Licence Act* and the regulations thereunder.

Government
stores
R.S.O. 1970,
c. 250

(2) The Board may fix the prices at which the various classes, varieties and brands of liquor are to be sold, and, except in the case of beer, such prices shall be the same at all Government stores. R.S.O. 1960, c. 217, s. 30.

Prices set

Managers

24. The sale of liquor at each Government store shall be conducted by a person appointed under this Act known as a manager who is, under the directions of the Board, responsible for the carrying out of this Act and the regulations so far as they relate to the conduct of such store and the sale of liquor thereat. R.S.O. 1960, c. 217, s. 31; 1965, c. 58, s. 16.

Sale of liquor

25.—(1) A manager may sell to any person such liquor as that person is entitled to purchase in conformity with this Act and the regulations.

Delivery of liquor sold

(2) Except as provided by the regulations, no liquor sold under this section shall be delivered until,

(a) the purchaser has given an order as prescribed by the regulations setting out the kind and quantity of liquor ordered; and

(b) the purchaser has paid for the liquor. 1965, c. 58, s. 17.

Sealing of package

26. Except as provided by this Act and the regulations, liquor shall be sold to a purchaser only in a package sealed with the official seal as prescribed by this Act or the regulations, and such package shall not be opened on the premises of a Government store. R.S.O. 1960, c. 217, s. 33.

Consumption on Board's premises

27. No officer, clerk or servant of the Board shall allow any liquor to be consumed on the premises of the Board or of a Government store nor shall any person consume any liquor on any such premises. R.S.O. 1960, c. 217, s. 34; 1965, c. 58, s. 18.

Delivery to and from Government store

28.—(1) It is lawful to carry or convey liquor to any Government store and to and from any warehouse or depot established by the Board for the purpose of this Act and the regulations, and, when permitted so to do by this Act and the regulations and in accordance herewith, it is lawful for any common carrier, or other person, to carry or convey liquor from a Government store to any place in Ontario to which it may be lawfully delivered under this Act and the regulations, but no such common carrier or other person shall open or break, or allow to be opened or broken, any package or vessel containing liquor, or drink or use, or allow to be drunk or used, any liquor therefrom while being so carried or conveyed. 1965, c. 58, s. 20.

Conveyance of liquor

(2) A purchaser of liquor or his duly authorized agent may carry or convey it from the premises where it may be lawfully kept or sold to the residence of the purchaser and such carriage or conveyance need not be direct if the package or vessel containing the liquor is unopened and the seal unbroken.

(3) A person lawfully in possession of liquor may carry or convey it from a residence occupied by him to a residence to be occupied by him, even where the package or vessel containing the liquor has been opened and the seal broken. R.S.O. 1960, c. 217, s. 36 (2, 3). Idem

29.—(1) The Board may, subject to the regulations, issue permits for the purchase of liquor. Permits

(2) Upon application in the prescribed form accompanied by payment of the prescribed fee and upon the Board being satisfied that the applicant is entitled to a permit, it may issue, Classes of permits

(a) a permit to a druggist, physician, dentist or veterinary or a person engaged in any mechanical or manufacturing business, or in scientific pursuits, requiring liquor for use therein, entitling him to purchase liquor for the purpose named in the permit and in accordance with the terms of the permit;

(b) a permit, when authorized by the regulations, entitling the holder to purchase liquor for the purpose named in the permit and in accordance with the terms of the permit.

(3) Any person whose permit has been lost or destroyed may apply to the Board, and, upon the Board being satisfied as to the loss or destruction, it may issue a duplicate permit. 1965, c. 58, s. 21. Lost or destroyed permits

30. Unless sooner cancelled, every permit expires at midnight on the 31st day of March of the year in respect of which it is issued, except in the case of a permit that, according to its terms, sooner expires. 1965, c. 58, s. 22. Expiry of permits

31. Every permit shall be issued in the name of the applicant therefor and no permit is transferable. R.S.O. 1960, c. 217, s. 39; 1965, c. 58, s. 23. Issue of permit

32.—(1) Liquor may be kept, had, given or consumed only in a residence of the purchaser or of a donee under section 33, except as otherwise provided by *The Liquor Licence Act* or this Act or the regulations under this Act or that Act. R.S.O. 1960, c. 217, s. 42 (1). Where liquor may be kept, etc. R.S.O. 1970, c. 250

(2) If the occupant of a residence or any member of the family of such occupant is convicted of keeping a disorderly house or of an offence against any of the provisions of this Act or the regulations committed in or in respect of such residence, or in respect of any liquor kept therein or removed therefrom, the justice making the conviction may, in and by the conviction, Disqualification of premises on conviction

declare such residence to be a public place for the purposes of this Act and the regulations, and thereupon such residence ceases to be a residence within the meaning of this Act and the regulations for a period of one year after the date of the conviction, but the Board may, when satisfied of a *bona fide* change of ownership or occupation of such residence or when in the opinion of a justice it is desirable to do so, declare such residence to be a residence within the meaning of this Act and the regulations and may grant a certificate to such effect to the new owner or occupant of such residence, and such residence shall, from the date of the granting of such certificate, be a residence and cease to be a public place within the meaning of this Act and the regulations. 1965, c. 58, s. 25.

Gifts of
liquor

33. Notwithstanding anything in this Act but subject to section 61, a person may make or receive a *bona fide* gift of liquor,

- (a) if the donor is in lawful possession of the liquor; and
- (b) if the donee is not a person who is prohibited from possessing or consuming liquor,

and the donee may have, keep, carry, convey or consume liquor received under this section as if he had purchased it in accordance with this Act and the regulations. R.S.O. 1960, c. 217, s. 45.

Liquor from
outside
Ontario

34. A person who is entitled to possess or consume liquor may lawfully possess liquor that was purchased outside Ontario,

- (a) if the bottles containing the liquor were purchased outside Canada and have been stamped or marked by a Canadian customs officer; or
- (b) if the liquor was purchased from a liquor board, commission or similar body in any other part of Canada. 1965, c. 58, s. 27, *part*.

Brewers'
licences

35.—(1) The Board, with the approval of the Minister and subject to this Act and the regulations, may issue a licence to any brewer duly authorized under any Act of the Parliament of Canada authorizing the brewer,

- (a) to keep for sale and sell beer to the Board;
- (b) to deliver beer on the order of the Board or of a manager to any person named in the order at the address therein stated;
- (c) to keep for sale and sell beer under the supervision and control of the Board and in accordance with this Act and the regulations.

Limitation
as to sale

(2) No brewer shall keep for sale, sell or deliver beer except as provided in this Act and the regulations.

(3) Every brewer shall make to the Board in every month a return in the form that the Board provides showing the gross amount of the sales of beer made by him, but the Board may at any time by notice in writing to a brewer require such a return of sales by the brewer for any period mentioned in the notice, and such return shall be made within three days of the receipt by the brewer of the notice. 1965, c. 58, s. 27, *part*.

Returns

36. Every brewer who fails to make such returns to the Board within twenty days following the expiration of any calendar month for which it should be made is guilty of an offence and is liable to a fine of \$100 per day for each day it is delayed, counting from the expiration of such twenty days. R.S.O. 1960, c. 217, s. 48; 1965, c. 58, s. 28.

Offence

37. Every brewer who makes default in forwarding a return when notified so to do under subsection 3 of section 35 within the time required by the notice given pursuant thereto is guilty of an offence and is liable to a fine of \$100 per day for each day during which the default continues. R.S.O. 1960, c. 217, s. 49; 1965, c. 58, s. 29.

Default in forwarding

38.—(1) The Board may also examine the books of any brewer making or required to make any such return, or may otherwise verify the accuracy of any such return. R.S.O. 1960, c. 217, s. 50 (1); 1965, c. 58, s. 30 (1).

Examination of books

(2) Every brewer who refuses to allow such examination or who fails to make returns in accordance with the regulations is guilty of an offence and is liable to a fine of \$500 for each offence. R.S.O. 1960, c. 217, s. 50 (2); 1965, c. 58, s. 30 (2).

Offence

39. No premises shall be constructed and equipped so as to facilitate any breach of this Act or the regulations. R.S.O. 1960, c. 217, s. 51.

Construction and equipment of premises

40. Every brewer shall, from time to time as he is required by the Board, furnish samples of his beer to be sold in Ontario, and the Board is entitled and is hereby authorized to require of any brewer samples of any beer then being sold in Ontario or in stock by the brewer or that is in the course of manufacture for sale in Ontario, and the brewer shall forthwith furnish such samples to the Board, and every brewer failing to do so is guilty of an offence and is liable to a fine of not more than \$500. R.S.O. 1960, c. 217, s. 52; 1965, c. 58, s. 31.

Furnishing of samples to Board

41.—(1) The Board, with the approval of the Minister and subject to this Act and the regulations, may issue a licence to a distiller authorizing him to keep for sale and sell liquor to the Board or as the Board directs.

Licences to distillers to sell to Board

- Regulations (2) The Board, with the approval of the Lieutenant Governor in Council, may make regulations providing for the returns to be made to the Board by distillers and governing the manner in which liquor may be sold, kept for sale or delivered by distillers.
- Sales by distiller (3) No distiller shall keep for sale, sell or deliver liquor except as provided by this Act or the regulations. R.S.O. 1960, c. 217, s. 53.
- Ontario wine producer's licence **42.**—(1) The Board, with the approval of the Minister and subject to this Act and the regulations, may issue a licence to any producer of Ontario wine duly authorized under any Act of the Parliament of Canada, authorizing the producer of Ontario wine,
(a) to keep for sale and sell Ontario wine to the Board;
(b) to deliver Ontario wine on the order of the Board or of a manager to any person named in the order at the address therein stated; and
(c) to keep for sale and sell Ontario wine under the supervision and control of the Board and in accordance with this Act and the regulations.
- Prohibited sales (2) The producer of Ontario wine shall not sell such wine otherwise than is permitted by this Act or the regulations and shall not allow any wine so sold to be consumed upon the premises of such producer. 1965, c. 58, s. 32.
- Term of licence **43.** Every licence issued under this Act or the regulations, unless sooner cancelled or determined, expires at midnight on the 31st day of March next following its issue. R.S.O. 1960, c. 217, s. 54.
- Cancellation, etc., of licences **44.** The Board may, for any cause that it considers sufficient after a hearing, cancel or suspend any licence issued to a brewer, to a producer of Ontario wine or to a distiller, and all right of the brewer, producer of Ontario wine or distiller to sell or deliver liquor thereunder is cancelled or suspended, as the case may be. 1965, c. 58, s. 33, *part*.
- Appeal upon cancellation **45.** Any holder of a licence or permit that is cancelled under section 22 or 44 may appeal from the order of the Board cancelling the licence or permit, and section 114 applies *mutatis mutandis* to any such appeal. 1965, c. 58, s. 33, *part*.

LIQUOR KEPT AND SOLD UNDER SPECIAL PERMITS

- Possession of alcohol by druggists **46.** Any druggist may have in his possession alcohol purchased by him from a manager under a permit pursuant to this Act or the regulations, such alcohol to be used solely in connection with the business of the druggist in compounding medicines or as a solvent or preservative. R.S.O. 1960, c. 217, s. 56; 1965, c. 58, s. 34.

47. Except as authorized or permitted by this Act or the regulations and in accordance therewith, nothing in this Act or in any Act shall be construed as authorizing or permitting any druggist to have or keep for sale, or by himself or his clerk, servant or agent to sell, any liquor. R.S.O. 1960, c. 217, s. 57.

Sale and
keeping for
sale by
druggist

48.—(1) Any physician, who is lawfully and regularly engaged in the practice of his profession and who considers liquor necessary for the health of a patient of his whom he has seen or visited professionally, may give to such patient a prescription therefor in the prescribed form, signed by the physician and addressed to a manager, or the physician may administer the liquor to the patient, for which purpose the physician shall administer only such liquor as was purchased by him under a permit pursuant to this Act or the regulations, and he may give to any such patient a prescription for liquor, and supply or sell, subject to the regulations, such liquor to his patient, and may charge for the liquor so administered or sold, but no prescription shall be given nor shall liquor be administered or sold by a physician except to a *bona fide* patient in cases of actual need and when in the judgment of the physician the use of liquor as medicine in the quantity prescribed, administered or sold is necessary. 1965, c. 58, s. 35.

Physicians

(2) Every physician who gives a prescription or administers or sells any liquor in contravention of this Act or the regulations, or who gives to or writes for any person a prescription for or including liquor for the purpose of enabling or assisting any person to evade any of the provisions of this Act or the regulations, or for the purpose of enabling or assisting any person to obtain liquor to be used as a beverage, or to be sold or disposed of in any manner in contravention of this Act or the regulations, is guilty of an offence. R.S.O. 1960, c. 217, s. 58 (2).

Giving pre-
scriptions
or adminis-
tering
liquor
illegally

49.—(1) A manager may upon the prescription of a physician sell and supply for strictly medicinal purposes,

- (a) beer in quantities of not more than one dozen bottles, containing not more than three half-pints each or a quantity equivalent thereto at any one time;
- (b) wines and distilled liquor not exceeding one quart at any one time;
- (c) alcohol for rubbing or other necessary purposes not exceeding one pint at any one time. R.S.O. 1960, c. 217, s. 59 (1); 1965, c. 58, s. 36.

Sale of
liquor by
managers
on
prescription

(2) Every prescription issued under section 48 shall contain a certificate that the quantity of liquor therein mentioned is the minimum quantity necessary for the patient for whom it is ordered.

Idem

Idem (3) No more than one sale and one delivery shall be made on any one prescription.

Offence (4) Any contravention of this section is an offence. R.S.O. 1960, c. 217, s. 59 (2-4).

Dentists **50.** Any dentist who considers it necessary that a patient being then under treatment by him should be supplied with liquor as a stimulant or restorative may administer to the patient the liquor so needed, and for that purpose the dentist shall administer liquor purchased by him under a permit pursuant to this Act or the regulations and may charge for the liquor so administered, but no liquor shall be administered by a dentist except to a *bona fide* patient in case of actual need, and every dentist who administers liquor in evasion or contravention of this Act or the regulations is guilty of an offence. R.S.O. 1960, c. 217, s. 60; 1965, c. 58, s. 37.

Veterinary surgeons **51.** Any veterinary who considers it necessary may in the course of his practice administer or cause to be administered liquor to any dumb animal, and for that purpose the veterinary shall administer or cause to be administered liquor purchased by him under a permit pursuant to this Act or the regulations, and may charge for the liquor so administered or caused to be administered, but no veterinary shall himself consume nor shall he give to or permit any person to consume as a beverage any liquor so purchased, and every veterinary who contravenes or suffers or permits any contravention of this section is guilty of an offence. R.S.O. 1960, c. 217, s. 61; 1965, c. 58, s. 38.

Hospitals, etc. **52.** Any person in charge of an institution regularly conducted as a hospital or sanitarium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, may, if he holds a permit under this Act or the regulations for that purpose, administer liquor purchased by him under his permit to any patient or inmate of the institution who is in need of it, either by way of external application or otherwise for emergency medicinal purposes, and may charge for the liquor so administered, but no liquor shall be administered by any person under this section except to *bona fide* patients or inmates of the institution of which he is in charge and in cases of actual need, and every person in charge of an institution or employed therein who administers liquor in contravention of this Act or the regulations is guilty of an offence. R.S.O. 1960, c. 217, s. 62; 1965, c. 58, s. 39.

APPLICATION OF ACT

Federal licences **53.**—(1) Nothing in this Act prevents any brewer, distiller or producer of Ontario wine duly licensed under any Act of the Parliament of Canada for the manufacture of liquor from having or keeping liquor in a place and in the manner authorized by or

under any such Act. R.S.O. 1960, c. 217, s. 63 (1); 1965, c. 58, s. 40.

(2) Nothing in this Act prevents, Sales to Board

- (a) the sale of liquor by any person to the Board;
- (b) the purchase, importation and sale of liquor by the Board for the purposes of and in accordance with this Act and the regulations. R.S.O. 1960, c. 217, s. 63 (2).

54. Except as otherwise provided by this Act or the regulations, a druggist or manufacturer of patent or proprietary medicine may sell such medicine in the original and unbroken package if such medicine contains sufficient medication to prevent its use as an alcoholic beverage. R.S.O. 1960, c. 217, s. 64. Patent or proprietary medicines

55.—(1) Except as otherwise expressly provided by this Act or the regulations, nothing in this Act prevents the sale, Certain tinctures, medicines, perfumes, etc.

- (a) by a druggist or by the manufacturer of,
 - (i) any tincture, fluid extract, essence or medicated spirit containing alcohol prepared according to a formula of the British Pharmacopoeia or other recognized standard work on pharmacy, or
 - (ii) medicine or other similar officinal or pharmaceutical compound or preparation, or
 - (iii) a perfume, lotion, toilet water or other similar preparation, or
 - (iv) for purely medicinal purposes, any mixture so prepared containing alcohol and other drugs or medicine; nor
- (b) by a merchant who deals in drugs and medicines, of such compounds, mixtures and preparations as are in this section hereinbefore mentioned and are so made or put up by a druggist or manufacturer, by reason only that the same contain alcohol, but this only applies to any such compound, mixture and preparation as contains sufficient medication to prevent its use as an alcoholic beverage.

(2) If in a prosecution for selling a product mentioned in section 54, or this section, the justice hearing the complaint is of opinion that an unreasonable quantity of any such product, having regard to the purposes for which it was legitimately manufactured, was sold or otherwise disposed of to any person either at one time or at intervals and proof is also given that it was used for beverage purposes, the person selling or otherwise disposing of it may be convicted of an offence under subsection 1 of section 60. R.S.O. 1960, c. 217, s. 65. Unreasonable quantity

Penalty for
using certain
products as
beverages
R.S.C. 1952,
c. 99

56.—(1) Every person who obtains or consumes for beverage purposes any of the products mentioned in section 54 or 55 or any preparation containing alcohol that has been denatured in accordance with the *Excise Act* (Canada) and the regulations made thereunder is guilty of an offence. R.S.O. 1960, c. 217, s. 66 (1); 1965, c. 58, s. 41 (1).

Sale of
alcoholic
compounds
prohibited

(2) Except as otherwise expressly provided in this Act or the regulations, no person shall have in his possession, sell or keep for sale any compound, mixture or preparation, whether in solid or liquid form, to which the addition of water or any other liquid or any substance will produce liquor. R.S.O. 1960, c. 217, s. 66 (2).

Mixtures
containing
alcohol

(3) Except as otherwise expressly provided in this Act or the regulations, no person shall have in his possession, sell or keep for sale any preparation, combination or mixture capable of human consumption that contains alcohol. 1965, c. 58, s. 41 (2).

Colour-
able sales

57.—(1) Where the justice before whom an information is heard finds that any patent or proprietary medicine mentioned or referred to in section 54 or any other medicine, preparation or mixture mentioned or referred to in section 55 does not contain sufficient medication to prevent it being used as an alcoholic beverage, the offender is liable to the penalties that may be imposed in the case of sale of liquor contrary to subsection 1 of section 60.

Charging
the offence

(2) It is not necessary in the information, summons, warrant, distress warrant, commitment or other process or proceeding, except the finding or judgment, to set out that such patent or other medicine, preparation or mixture does not contain sufficient medication to prevent it being used as an alcoholic beverage, but it is sufficient if the information and all other necessary statements of the offence allege or refer to the sale of liquor in contravention of this Act. R.S.O. 1960, c. 217, s. 67 (1, 2).

Analysis of
patent medi-
cines kept
by druggist

58.—(1) A druggist or other person who keeps patent or proprietary medicines for sale shall, upon request made by the inspector or other person authorized by the Board, permit the inspector or other person to take away a sample sufficient for the purpose of analysis of any patent or proprietary medicine kept by him for sale. R.S.O. 1960, c. 217, s. 68 (1).

Offence

(2) Every person who refuses to comply with such a request is guilty of an offence and liable to a fine of not less than \$50 and not more than \$200. R.S.O. 1960, c. 217, s. 68 (2); 1965, c. 58, s. 43.

Brewer's
marks

59.—(1) Every brewer shall, on all beer manufactured and bottled by him for sale or consumption in Ontario, place a crown cork stopper or other stopper showing thereon by embossing or

lithographing on the outside thereof such information as to the contents as the Board may from time to time require and shall also cause the same information to be branded in or labelled on all casks, barrels, kegs or other vessels containing such beer as the Board may determine. R.S.O. 1960, c. 217, s. 69 (1); 1965, c. 58, s. 44 (1).

(2) Every brewer who contravenes any of the provisions of this section is guilty of an offence and is liable to a fine of \$10,000. R.S.O. 1960, c. 217, s. 69 (2); 1965, c. 58, s. 44 (2). Offence

PROHIBITIONS, INTERDICTION, PENALTIES AND
PROCEDURE IN PROSECUTIONS AND ON APPEAL

60.—(1) Except as provided by this Act, *The Liquor Licence Act* or the regulations hereunder or thereunder, no person shall by himself, his clerk, servant or agent, expose, or keep for sale, or directly or indirectly or upon any pretence, or upon any device, sell or offer to sell, liquor or, in consideration of the purchase or transfer of any property, or for any other consideration, or at the time of the transfer of any property, give liquor to any other person. R.S.O. 1960, c. 217, s. 70 (1). Selling, etc.
liquor
otherwise
than under
Act
R.S.O. 1970,
c. 250

(2) Except as expressly provided by this Act or the regulations, no person shall have or keep any liquor that has not been purchased from the Board or from a physician as provided by section 48. R.S.O. 1960, c. 217, s. 70 (2); 1965, c. 58, s. 45. Possession

(3) Subsection 2 does not apply to the Board nor to the keeping or having of any proprietary or patent medicines or of any extracts, essences, tinctures or preparations where such having or keeping is authorized by this Act or the regulations. Exceptions

(4) Nothing in this section applies to the possession by a sheriff or his bailiff of liquor seized under execution or other judicial or extra-judicial process nor to sales under executions or other judicial or extra-judicial process to the Board. R.S.O. 1960, c. 217, s. 70 (3, 4). Liquor
taken under
judicial
process

61. No brewer, distiller or manufacturer of liquor shall in Ontario, by himself, his clerk, servant or agent, give any liquor to any person, except as is permitted by and in accordance with the regulations. R.S.O. 1960, c. 217, s. 71. Brewers,
etc., giving
liquor

62. No person authorized to sell liquor in accordance with this Act or the regulations, and no clerk, servant or agent of such person, shall sell or furnish liquor in any other place or at any other time or otherwise than as authorized by this Act or the regulations. R.S.O. 1960, c. 217, s. 72 (1). Sale by
managers
and
other
officials

Adulterated liquor sold under licence

63. No holder of a licence under this Act or the regulations, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any liquor kept for sale, sold or supplied by him as a beverage any drug or any form of methylic alcohol or any crude, unrectified or impure form of ethylic alcohol or any other deleterious substance or liquid. R.S.O. 1960, c. 217, s. 74.

Interest in liquor business forbidden

64.—(1) No member or employee of the Board shall be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part owner, partner, member of syndicate, shareholder, agent or employee and whether for his own benefit or in a fiduciary capacity for some other person.

Taking improper commissions

(2) No member or employee of the Board or any employee of the Government shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person having sold, selling or offering liquor for sale to the Board in pursuance of this Act or the regulations.

Offering commissions, etc.

(3) No person selling or offering for sale to or purchasing liquor from the Government or the Board shall either directly or indirectly offer to pay any commission, profit or remuneration, or make any gift, to any member or employee of the Board or to any employee of the Government or to anyone on behalf of such member or employee. R.S.O. 1960, c. 217, s. 75.

Taking liquor unlawfully disposed of

65. Except as provided by this Act or the regulations, no person shall by himself, his clerk, servant or agent attempt to purchase, or directly or indirectly or upon any pretence or upon any device purchase, or in consideration of the sale or transfer of any property, or for any other consideration, or at the time of the transfer of any property, take or accept any liquor from any other person. R.S.O. 1960, c. 217, s. 76.

Liquor which may be consumed
R.S.O. 1970, c. 250

66. Except as provided by this Act or *The Liquor Licence Act* or the regulations hereunder or thereunder, no person shall consume liquor unless the liquor has been acquired under this Act or the regulations, or is had or kept with the permission of the Board, and unless the package in which the liquor is contained and from which it is taken for consumption has, while containing that liquor, been sealed with the official seal prescribed by this Act or the regulations. R.S.O. 1960, c. 217, s. 78; 1965, c. 58, s. 49.

Liquor to be sealed

67. Except where otherwise provided, no liquor shall be kept or had by any person unless the package in which the liquor was purchased was sealed with the official seal prescribed by the regulations. 1965, c. 58, s. 50.

68.—(1) Except as expressly provided by this Act or *The Liquor Licence Act* or the regulations hereunder or thereunder, no person shall consume liquor in any place other than a residence.

Consumption elsewhere than in residence
R.S.O. 1970, c. 250

(2) No person shall be in an intoxicated condition in a public place. R.S.O. 1960, c. 217, s. 80.

Drunkenness in public places

69. No person shall sell or supply liquor or permit liquor to be sold or supplied to any person under or apparently under the influence of liquor. R.S.O. 1960, c. 217, s. 81.

Sale of liquor to drunken person

70.—(1) No person shall knowingly sell or supply liquor to a person under the age of twenty-one years.

Minors

(2) No liquor shall be sold or supplied to a person who is apparently under the age of twenty-one years, and, in any prosecution for a contravention of this subsection, the justice shall determine from the appearance of such person and other relevant circumstances whether he is apparently under the age of twenty-one years. R.S.O. 1960, c. 217, s. 82 (1, 2).

Idem

(3) No person under the age of twenty-one years shall have, consume, attempt to purchase, purchase or otherwise obtain liquor. R.S.O. 1960, c. 217, s. 82 (3); 1965, c. 58, s. 51.

Minor prohibited from purchasing liquor

(4) This section does not apply to the supplying of liquor to a person under the age of twenty-one years for medicinal purposes only by the parent or guardian of such person, or to the administering of liquor to such person by a physician or as provided by this Act or the regulations. R.S.O. 1960, c. 217, s. 82 (4).

Application of section

71.—(1) Notwithstanding anything in this Act or the regulations, the Board may, by order of interdiction signed by the Chief Commissioner or the Deputy Chief Commissioner, prohibit any person from purchasing, having, giving or consuming any liquor, and any such person who contravenes such order of interdiction is guilty of an offence.

Orders of interdiction as to purchase, etc., of liquor

(2) Notwithstanding anything in this Act or the regulations, where an order of interdiction is made against a person under subsection 1, all liquor and original liquor containers in his possession or under seizure at the date of the order of interdiction shall be delivered forthwith to the Board, which shall pay to him the value of any such liquor purchased in accordance with this Act.

Idem

(3) The Board may, by order of interdiction signed by the Chief Commissioner or the Deputy Chief Commissioner, prohibit a manager, brewer, producer of Ontario wine, holder of a licence under *The Liquor Licence Act* or other person from supplying either directly or indirectly liquor to any person against whom an

Supplying, etc., liquor to interdicted persons

R.S.O. 1970,
c. 250

order of interdiction has been issued pursuant to subsection 1, and any such manager, brewer, producer of Ontario wine, holder of a licence under *The Liquor Licence Act* or other person who knowingly contravenes any such order of interdiction is guilty of an offence.

Idem

(4) The Board may, by order of interdiction signed by the Chief Commissioner or the Deputy Chief Commissioner, prescribe the kinds and quantities of liquor that may be sold to any person by a manager, brewer, producer of Ontario wine, holder of a licence under *The Liquor Licence Act* or other person under this Act or the regulations, and any person who knowingly contravenes the provisions of any such order of interdiction is guilty of an offence.

Service
of orders

(5) Service of the orders of interdiction of the Board mentioned in subsections 1, 3 and 4 is effective if forwarded by registered mail to the last known address of the person against whom the order of interdiction is made. 1965, c. 58, s. 53.

Supply of
liquor to
interdicted
person

72. Except in the case of liquor supplied to an interdicted person upon the prescription of a physician or administered to him by a physician or dentist pursuant to this Act or the regulations, no person shall knowingly procure for, sell or give any liquor to an interdicted person, nor directly or indirectly assist in procuring or supplying any liquor to an interdicted person. R.S.O. 1960, c. 217, s. 85.

Interdicted
persons at
Government
store

73. Every interdicted person who is found upon the premises of a Government store is guilty of an offence. 1965, c. 58, s. 54.

False state-
ments in
orders
prohibited

74. No person shall, upon an order referred to in clause *a* of subsection 2 of section 25 or upon a proof-of-age certificate, use any name other than his own or make any other false statement. 1965, c. 58, s. 56.

Permitting
drunken-
ness

75. No person shall,

- (a) permit drunkenness to take place in any house or on any premises of which he is the owner, tenant or occupant; or
- (b) permit or suffer a person apparently under the influence of liquor to consume any liquor in any house or on any premises of which the first-named person is owner, tenant or occupant; or
- (c) give any liquor to a person apparently under the influence of liquor. R.S.O. 1960, c. 217, s. 89.

Possession
of liquor

76.—(1) Except as authorized by this Act or *The Liquor Licence Act*, no person shall have any liquor in his possession.

(2) No person shall consume in his residence any liquor that has not been had or acquired by him under this Act or the regulations. 1965, c. 58, s. 57. Con-
sumption
of liquor

77. Except as provided by this Act or *The Liquor Licence Act* or the regulations hereunder or thereunder and except in the case of liquor kept and consumed pursuant to a special permit granted under section 29, no person, Hotels
R.S.O. 1970,
c. 250

- (a) shall keep or consume liquor in any part of a hotel other than a private guest room;
- (b) shall keep or have any liquor in any room in a hotel unless he is a *bona fide* guest of the hotel and is duly registered in the office of the hotel as an occupant of that room. R.S.O. 1960, c. 217, s. 91 (1); 1965, c. 58, s. 58 (1).

78. No person shall directly or indirectly hold himself out or act as an agent or representative of a distiller, brewer or a producer of wine or Ontario wine unless he is registered with the Board as an agent or representative of such distiller, brewer or producer. R.S.O. 1960, c. 217, s. 92. Represent-
atives to be
registered

79.—(1) Except as permitted by this Act or the regulations, no person shall, Canvassing
for orders,
etc.

- (a) canvass for, receive, take or solicit orders for the purchase or sale of any liquor or act as agent or intermediary for the sale or purchase of any liquor, or hold himself out as such agent or intermediary;
- (b) exhibit or display, or permit to be exhibited or displayed, any sign or poster containing the words "bar", "bar-room", "saloon", "spirits" or "liquors", or words of like import;
- (c) exhibit or display, or permit to be exhibited or displayed, any advertisement or notice of or concerning liquor by an electric or illuminated sign, contrivance or device, or on any hoarding, sign-board, billboard or other place in public view, or by any of the means aforesaid, advertise any liquor.

(2) This section does not apply to any advertisement respecting liquor in premises where the liquor may be lawfully stored, kept or sold under this Act or the regulations, if the advertisement has first been permitted in writing by the Board and then subject to such permission and the directions of the Board. Approved
adver-
tising

(3) No person, unless authorized by the Board, shall exhibit, publish or display or permit to be exhibited, published or Adver-
tising

displayed any other advertisement, or form of advertisement, or any other announcement, publication or price list of or concerning liquor or where or from whom the liquor may be had, obtained or purchased.

Exception (4) This section does not apply,

- (a) to the Board or any Government store; or
- (b) to the receipt of transmission of a telegram or letter by any telegraph agent or operator or post office employee in the ordinary course of his employment as such agent, operator or employee. R.S.O. 1960, c. 217, s. 93.

Offence

80. Every person who, without lawful excuse, is found in any premises at the time of the commission upon such premises of any offence against or contravention of any of the provisions of this Act is guilty of an offence. R.S.O. 1960, c. 217, s. 94.

Labels, etc.,
for beer or
liquor

81. Every person manufacturing or brewing beer shall put upon all bottles containing beer so manufactured or brewed for sale in Ontario a distinctive label showing the nature of the contents, the name of the person by whom the beer was manufactured or brewed, and the place where the beer was brewed, and shall show clearly on all barrels or other receptacles containing beer so manufactured or brewed, whether bottled or otherwise, the nature of the contents, the name of the person by whom the beer was manufactured or brewed, and the place where the beer was brewed, and, for the purposes of this section, the contents of bottles, barrels and other receptacles containing beer shall be shown by the use of the word "beer", "ale", "stout" or "porter" on the outside of all bottles, barrels and other receptacles. R.S.O. 1960, c. 217, s. 95.

Interdiction
orders

82.—(1) Where it is made to appear to the satisfaction of the judge of a county or district court, a provincial judge sitting in a provincial court (family division) or a justice that a person, resident or sojourning in Ontario, by excessive drinking of liquor, misspends, wastes or lessens his estate, or injures his health, or interrupts the peace and happiness of his family, the judge, provincial judge or justice may make an order of interdiction prohibiting the sale of liquor to him until further ordered, and the judge, provincial judge or justice shall cause the order of interdiction to be forthwith filed with the Board. 1965. c. 58, s. 60, *amended*.

Disregard
of order

(2) Every interdicted person keeping or having in his possession or under his control or consuming any liquor is guilty of an offence, and the justice making the conviction may in and by the conviction declare the liquor and all packages in which the liquor is contained forfeited to Her Majesty in right of Ontario. R.S.O. 1960, c. 217, s. 97 (2).

83. Upon an order of interdiction being made, the interdicted person shall deliver forthwith to the Board all liquor in his possession or under his control to be kept for him by the Board until the order of interdiction is revoked or set aside, or, at the option of the Board, such liquor may be purchased from him at a price to be fixed by the Board. R.S.O. 1960, c. 217, s. 98.

Delivery of
liquor to
Board on
inter-
diction

84. Upon receipt of an order of interdiction, the Board shall notify the interdicted person and all managers, and such other persons as are provided for by the regulations, of the order of interdiction. 1965, c. 58, s. 61, *part*.

Notice of
interdiction
orders

85.—(1) Upon an application to a judge, a provincial judge sitting in a provincial court (family division) or a justice by a person in respect of whom an order of interdiction has been made, and upon it being made to appear to the satisfaction of the judge, provincial judge or justice that the circumstances of the case did not warrant the making of the order of interdiction or upon proof that the interdicted person has refrained from drunkenness for at least the twelve months immediately preceding the application, the judge, provincial judge or justice may by order set aside the order of interdiction, and the interdicted person may be restored to all his rights under this Act and the regulations, and the Board shall accordingly forthwith notify all managers and such other persons as are provided for by the regulations. 1965, c. 58, s. 61, *part, amended*.

Revocation
of inter-
diction
orders

(2) The applicant shall, at least ten clear days before the application, give notice thereof to the Board, in writing served upon the Board, and to such other persons as the judge, provincial judge or justice directs. 1965, c. 58, s. 61, *part, amended*.

Notice of
application

86. Every person who contravenes any provision of this Act or the regulations is guilty of an offence against this Act, whether so declared or not. R.S.O. 1960, c. 217, s. 101.

Contraven-
tions of Act
to be
offences

87. Every brewer, distiller or manufacturer who is convicted of keeping for sale or selling liquors by himself, or by his clerk, servant, agent or employee, contrary to this Act or the regulations is guilty of an offence and liable to a fine of not less than \$5,000 and not more than \$25,000. R.S.O. 1960, c. 217, s. 103; 1965, c. 58, s. 63.

Brewers
and
distillers

88. Every person who contravenes any of the provisions of section 64 is guilty of an offence and liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both. 1965, c. 58, s. 64, *part*.

Penalties,
s. 64

Penalties,
ss. 70 (1), 72

89. Every person who contravenes any provision of subsection 1 of section 70 or section 72 is guilty of an offence and liable to a fine of not more than \$3,000 or to imprisonment for a term of not more than six months, or to both. 1965, c. 58, s. 64, *part*.

Penalties,
ss. 32, 56,
60 (1),
62, 63,
70 (2, 3),
79

90.—(1) Every person who contravenes any provision of section 32 or 56, subsection 1 of section 60, section 62, section 63, subsection 2 or 3 of section 70 or section 79 is guilty of an offence and liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem,
s. 74

(2) Every person who contravenes any provision of section 74 is guilty of an offence and liable to a fine of not less than \$100 and not more than \$500 or to imprisonment for a term of not more than two months, or to both. 1965, c. 58, s. 65 (1).

Corpora-
tions

(3) If the offender convicted of an offence referred to in this section is a corporation, it is liable to a fine of not less than \$5,000 and not more than \$25,000. R.S.O. 1960, c. 217, s. 106 (6); 1965, c. 58, s. 65 (2).

Penalty for
being drunk
in public
place

(4) Every person who contravenes subsection 2 of section 68 is guilty of an offence and,

(a) is liable to a fine of not more than \$50; or

(b) where he has contravened such subsection at least twice during the twelve months preceding the date of the commission of the offence thereunder with which he is charged, he is liable to imprisonment for a term of thirty days; or

(c) where it appears that he may benefit therefrom, he may be ordered to be detained for a term of ninety days in an institution for the reclamation of alcoholics that is designated for the purpose by the Lieutenant Governor in Council, but, if at any time during his term the superintendent of the institution is of the opinion that further detention therein will not benefit him, the superintendent may release him. 1960-61, c. 47, s. 1, *part*; 1961-62, c. 72, s. 4.

Institutions
for reclama-
tion of
alcoholics

(5) The Lieutenant Governor in Council may designate one or more institutions for the reclamation of alcoholics detained therein under subsection 4 and may make regulations respecting the transfer, admission and detention of persons to or in such institutions and providing for the government and operation of such institutions. 1960-61, c. 47, s. 1, *part*.

General
penalty

91.—(1) Every person who is guilty of an offence against this Act for which no penalty has been specifically provided is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both.

(2) If the offender convicted of an offence referred to in this section is a corporation, it is liable to a fine of not less than \$5,000 and not more than \$25,000. 1965, c. 58, s. 66.

Corporations

92.—(1) Where a corporation is convicted of an offence under this Act or the regulations and the conviction adjudges a pecuniary penalty or compensation to be paid by the corporation, or an order under this Act requires the payment of a sum of money by a corporation, the court, judge or justice, by his or their conviction or order, after adjudging payment of such penalty, compensation or sum of money with costs, may order and adjudge that, in default of payment of such penalty, compensation or sum of money forthwith or within a limited time, such penalty, compensation or sum of money shall be levied by distress and sale of the goods and chattels of the corporation.

Recovery of fines from corporations by distress

(2) In any such case and in addition to the other remedies provided hereby, a copy of such conviction or order certified to by a judge or justice, or by the officer in whose custody the same is by law required to be kept, may be filed in the proper county or district court, and such conviction or order thereupon becomes a judgment of such court and all proceedings may be thereupon taken and had as on any other judgment of such court.

Enforcing judgment against corporation

(3) In the case of the conviction of or an order against a corporation that by the law of Ontario is required to obtain a licence to carry on its business in Ontario and has obtained such licence, if the penalty, compensation or sum of money is not paid according to the terms of the conviction or order, the Lieutenant Governor in Council may, in case of such default in payment of penalty, compensation or sum of money as aforesaid, cancel and revoke the licence so issued to the corporation.

Cancellation of licence of corporation

(4) Nothing in this section shall be construed as in any way affecting, limiting or restricting any proceedings that otherwise can or may be taken or had for the infliction of punishment by fine or imprisonment or the modes of enforcement or recovery of fines or other penalties.

Application of section

(5) Notwithstanding anything in this Act, where a pecuniary penalty is imposed, the justice may in his discretion order that in default of payment of the penalty distress shall issue for the recovery thereof or he may if he sees fit order that in default of immediate payment of the penalty the offender shall be committed to a correctional institution for such term as is allowed by law. R.S.O. 1960, c. 217, s. 108, *amended*.

Power to issue distress on non-payment of penalty

93.—(1) A constable or other police officer may at any time,

Search

(a) without a warrant, enter and search any vehicle or other conveyance in which he has reasonable grounds to

believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and search any person found in such vehicle or other conveyance;

- (b) under the authority of a warrant issued under subsection 3, enter and search any residence, building or place in which he has reasonable grounds to believe that liquor is unlawfully kept or had, or kept or had for unlawful purposes, and search any person found in such residence, building or place.

Seizure

(2) A constable or other police officer who has made a search under subsection 1 may at any time seize and take away,

- (a) any liquor and packages in which the liquor is kept;
- (b) any book, paper or thing that he reasonably believes may be evidence of the commission of an offence against this Act; and
- (c) any vehicle or other conveyance in which the liquor is found.

Search
warrant

(3) A justice or a justice of the peace who is satisfied by information upon oath that there are reasonable grounds for believing that liquor is unlawfully kept or had, or kept or had for unlawful purposes, in any residence, building or place may issue a warrant under his hand authorizing a constable or other police officer named therein at any time, including Sunday or other holiday, and by day or by night, to enter the residence, building or place and search for liquor, and, for the purpose of exercising his authority under this subsection, a constable or other police officer may, with such assistance as he considers necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, plumbing fixture, box, container or any other thing.

Application
for
restoration

(4) Where liquor or any other thing, except a vehicle or other conveyance, has been seized under subsection 2, any person may within thirty days from the date of such seizure apply to a justice within whose territorial jurisdiction the seizure was made for an order of restoration under subsection 5.

Order for
restoration

(5) Where upon the hearing of an application under subsection 4 the justice is satisfied that,

- (a) the applicant is entitled to possession of the liquor or other thing seized; and
- (b) the liquor or other thing seized is not required as evidence in any proceedings in respect of an offence under this Act,

he shall order that the liquor or other thing seized be restored forthwith to the applicant, and, where the justice is satisfied that the applicant is entitled to the possession of the liquor or other

thing seized but is not satisfied as to the matter mentioned in clause *b*, he shall order that the liquor or other thing seized be restored to the applicant,

(c) upon the expiration of three months from the date of the seizure, if no proceedings in respect of an offence under this Act have been commenced; or

(d) upon the final conclusion of any such proceedings.

(6) Where no application has been made for the return of any liquor or other thing seized under subsection 2 or an application has been made but upon the hearing thereof no order of restoration has been made, the liquor or other thing seized is forfeited to Her Majesty. Forfeiture

(7) Where a person is convicted of an offence under this Act, any liquor or other thing seized under subsection 2 by means of which the offence was committed is forfeited to Her Majesty. Idem

(8) Where a person is convicted of an offence under this Act, the justice may order that any vehicle or other conveyance seized under subsection 2 that has been proved to have been used in any manner in connection with the offence be forfeited, and upon such order being made the vehicle or conveyance is forfeited to Her Majesty. Idem,
vehicles,
etc.

(9) *The Fines and Forfeitures Act* applies in the case of any vehicle or other conveyance that is forfeited under subsection 8, except that an application under that Act shall not be made by the person convicted of the offence that resulted in the forfeiture or by a person in whose possession the vehicle or other conveyance was when seized under subsection 2. 1965, c. 58, s. 68. Application
of
R.S.O. 1970,
c. 167

94. Any constable or other police officer may arrest without warrant a person whom he finds committing an offence against this Act or the regulations. R.S.O. 1960, c. 217, s. 111. Arrest
without
warrant

95.—(1) All forfeited liquor shall forthwith be delivered to the Board and shall be destroyed. 1965, c. 58, s. 70. Delivery of
forfeited
liquor to
Board

(2) In every case in which liquor is seized by a constable or other police officer, it is his duty to forthwith make or cause to be made to the Board a report in writing of the particulars of the seizure. R.S.O. 1960, c. 217, s. 117 (3). Report on
seizure

96. Where any information is given to a constable or other police officer that there is cause to suspect that a person is contravening any of the provisions of this Act or the regulations, it is his duty to make diligent inquiry into the truth of such information, and to enter complaint of such contravention before the proper court, without communicating the name of the person giving such information, and it is the duty of the Crown attorney Duties of
officers
and Crown
attorneys
on receiving
information
of infringement
of this Act

in the county in which the offence is committed to attend to the prosecution of all cases submitted to him by a constable or by an officer appointed under this Act by the Board or by any officer appointed by the council of a municipality that has entered into an agreement with The Liquor Licence Board of Ontario and the council appointing such officer is responsible for the payment of the proper fees of the Crown attorney when so employed by such officer. R.S.O. 1960, c. 217, s. 118.

Duties of
officers

97.—(1) For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this Act and the regulations, any inspector or officer appointed by the Board in writing for the purpose, or any constable or other police officer, may inspect the freight and express books and records, and all way-bills, bills of lading, receipts and documents in the possession of any railway company, express company or other common carrier doing business in Ontario, containing any information or record relating to any goods shipped or carried or consigned or received for shipment or carriage in Ontario.

Carriers not
producing
records

(2) Every railway company, express company or common carrier, and every officer or employee of any such company or common carrier, who neglects or refuses to produce and submit for inspection any book, record or document referred to in subsection 1, when requested to do so by the Board or by such inspector or officer, or constable or other police officer, is guilty of an offence. R.S.O. 1960, c. 217, s. 119.

Description
of offence

98. In describing the offence respecting the sale or keeping for sale or other disposal of liquor, or the having, keeping, giving, purchasing or the consumption of liquor, in any information, summons, conviction, warrant or proceeding under this Act, it is sufficient to state the sale or keeping for sale, or disposal, having, keeping, giving, purchasing or consumption, of liquor simply, without stating the name or kind of the liquor or the price thereof, or any person to whom it was sold or disposed of, or by whom it was taken or consumed, or from whom it was purchased or received, and it is not necessary to state the quantity of liquor so sold, kept for sale, disposed of, had, kept, given, purchased or consumed, except in the case of offences where the quantity is essential, and then it is sufficient to allege the sale or disposal of more or less than such quantity. R.S.O. 1960, c. 217, s. 120.

Powers as
to amend-
ment

99. Notwithstanding anything in this Act, at any time before judgment the justice may amend or alter an information and may substitute for the offence charged therein any other offence against this Act or the regulations, but, if it appears that the defendant has been materially misled by such amendment, the justice shall thereupon adjourn the hearing of the case to some future day, unless the defendant waives such adjournment. R.S.O. 1960, c. 217, s. 121.

100. Subject to section 88 of *The Liquor Licence Act*, all fines imposed under this Act, after deducting all necessary costs, shall be paid by the justice to the Board. R.S.O. 1960, c. 217, s. 122.

Payment of penalties to Board
R.S.O. 1970, c. 250

101. The information for the prosecution of any offence against this Act or the regulations shall be laid in writing within three months after the commission of the offence and not afterwards. R.S.O. 1960, c. 217, s. 123.

Limitation

102. All prosecutions under this Act, whether for the recovery of a penalty or otherwise, shall take place before a provincial judge having jurisdiction or before two or more justices of the peace where no such provincial judge is available. R.S.O. 1960, c. 217, s. 124, *amended*.

All prosecutions may be before justice

103. Except as otherwise provided in this Act, the fines imposed by or under the authority of this Act are recoverable under *The Summary Convictions Act*. R.S.O. 1960, c. 217, s. 125.

Recovery of fines
R.S.O. 1970, c. 450

104. The description of an offence under this Act or the regulations, in the words of this Act or the regulations, or in any words of like effect, is sufficient in law, and any exception, exemption, provision, excuse or qualification, whether it occurs by way of proviso or in the description of the offence in this Act or the regulations, may be proved by the defendant, but need not be specified or negatived in the information, but, if it is so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant. R.S.O. 1960, c. 217, s. 126.

Description of offence

105. In proving the sale, disposal, purchase or consumption of liquor, it is not necessary in any prosecution to show that money actually passed or liquor was actually consumed if the justice hearing the case is satisfied that a transaction in the nature of a sale, disposal or purchase actually took place, or that any consumption of liquor was about to take place, and proof of consumption or intended consumption of liquor on premises on which such consumption is prohibited is evidence that such liquor was sold or purchased by the person consuming, or being about to consume, or carrying away, such liquor, as against the occupant of such premises. 1965, c. 58, s. 72.

Evidence of sale, etc.

106. In a prosecution under this Act in which a constable or other police officer produces a certificate or report signed or purporting to be signed by a federal or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, such certificate or report is conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making it without any proof of appointment or signature. R.S.O. 1960, c. 217, s. 129.

Analysis by federal or provincial analysts

Certificates

107. In a prosecution under this Act, the production of a certificate of cancellation or suspension of a permit or a certified copy of an order of interdiction is *prima facie* evidence of the cancellation or suspension of the permit or of the issuing of the order, as the case may be, without proof of the signature or official character of the person by whom it purports to be signed. 1965, c. 58, s. 73.

Presumption

108. In a prosecution under this Act, in the absence of proof to the contrary, it shall be conclusively presumed by the justice trying the case that the liquor in question is not exempt from this Act under an order of the Board. R.S.O. 1960, c. 217, s. 130.

Inference
as to
liquor

109. The justice trying a case is, in the absence of proof to the contrary, at liberty to infer that the liquor in question is liquor within the meaning of this Act from the fact that a witness describes it as liquor or by a name that is commonly applied to liquor. R.S.O. 1960, c. 217, s. 131.

Inference
from
circum-
stances

110. Upon the hearing of a charge of selling or purchasing liquor or of unlawfully having or keeping liquor contrary to this Act or the regulations, the justice trying the case has the right to draw inferences of fact from the kind and quantity of liquor found in the possession of the person accused, or in any building, premises, vehicle, motor car, automobile, vessel, boat, canoe, conveyance or place occupied or controlled by him, and from the frequency with which the liquor is received thereat or therein or is removed therefrom, and from the circumstances under which it is kept or dealt with. R.S.O. 1960, c. 217, s. 132.

Service on
corpora-
tions

111. In all prosecutions, actions or proceedings under this Act against a corporation, every summons, warrant, order, writ or other proceeding may, in addition to any other manner of service that is provided or authorized by law, be served on the corporation by delivering it to any officer, attorney or agent of the corporation in Ontario, or by leaving it at any place in Ontario where it carries on any business, but service in any other way shall be deemed sufficient if the court or justice, by or before whom such summons, warrant, order, writ or other proceeding was issued or is returnable or by or before whom any proceeding subsequent to such service is to be had or taken, is of the opinion that the service has been such as to bring the summons, warrant, order, writ or other proceeding to the notice of the corporation. R.S.O. 1960, c. 217, s. 136.

Presump-
tion as to
incorpora-
tion

112. In any prosecution, action or proceeding under this Act in which it is alleged that a corporation is or has been guilty of an offence against this Act or the regulations, the fact of the incorporation of that corporation shall be presumed without it

being proved by the prosecutor, unless satisfactory proof is produced to the contrary. R.S.O. 1960, c. 217, s. 137.

113. No motion to quash a conviction, order or warrant made under this Act shall be heard by the court or judge unless the notice of such motion has been served within thirty days from the date of the conviction or order. R.S.O. 1960, c. 217, s. 139.

Notice of
motion to
quash
conviction

114.—(1) Any person convicted under this Act may, subject to the provisions hereinafter contained, appeal from the conviction to the judge of the county or district court of the county or district in which the conviction is made sitting in chambers without a jury if notice of such appeal is given to the prosecutor or informant and to the convicting justice within twenty days of such conviction.

Appeal to
county or
district
judge

(2) Such notice shall set forth the grounds on which the appeal is made and shall have endorsed thereon the address at which the appellant may be served with any notice or process in connection with any proceeding under this section or under section 115. R.S.O. 1960, c. 217, s. 140 (1, 2).

Notice to
set forth
grounds
and give
address
for service

(3) In case the appellant has paid the fine and costs imposed upon him by the convicting justice, he may, subject to the conditions set out in subsections 1 and 2 and the deposit of \$50 with the justice to answer the respondent's costs, appeal against such conviction to the judge having jurisdiction in the matter who shall hear and determine the appeal as provided in subsections 10 and 11, and the deposit of the \$50 shall be made at the time of the delivery of the notice of appeal or within five days thereafter, and, in default of such deposit, the appeal shall be dismissed.

Appeal
after
payment of
fine and
cost

(4) Subject to subsection 5, the person convicted, if he is in custody, shall either remain in custody until the hearing of the appeal before the judge or he may, notwithstanding any order of imprisonment either in the first instance or in default of the payment of a fine, enter into a recognizance with two sufficient sureties in such sum or sums as the justice with the approval of the Crown attorney may fix, conditioned personally to appear before the judge and to try the appeal and abide by his judgment thereupon and also to pay any penalty in money and costs that the judge orders.

Recognizance

(5) Where the appellant desires to deposit a sum of money instead of providing sureties, he may do so on entering into a recognizance on his own behalf and depositing an amount approved by the convicting justice and the Crown attorney, not being less than a surety would be required to become responsible for, and any money so deposited shall be available for the payment of any fine and costs that the judge thinks fit to impose.

Money
deposit in
lieu of
recognizance

When
security
may be
withdrawn
or
cancelled

(6) In any case in which security is provided, whether in money or otherwise, the security shall not be withdrawn until the time has elapsed for entering an appeal and, in case of a further appeal, the security shall remain until the final disposition of the case. R.S.O. 1960, c. 217, s. 140 (4-7).

When re-
cognizance
entered
into

(7) Upon the recognizance being entered into, the justice shall liberate such person if in custody and shall, immediately after such liberation or, if the appellant remains in custody, shall immediately after service of the notice of appeal upon the convicting justice, deliver or transmit by registered mail to the clerk of the county or district court, to be delivered after filing to the judge appealed to, the depositions and all other papers in the case, including notice of appeal with a certificate signed by the justice in the form hereinafter mentioned, and such certificate shall be deemed to be a part of the record. R.S.O. 1960, c. 217, s. 140 (8); 1965, c. 58, s. 77 (2).

Certificate
of justice

(8) The certificate shall be in the following form:

CERTIFICATE OF JUSTICE

A notice having been served upon me, the undersigned, of the intention of the defendant to appeal against my decision in the case set out in the information mentioned below, I herewith in pursuance of the statute, return the following papers therein:

1. Notice of appeal.
2. Information.
3. Summons or warrant issued thereon.
4. The evidence.
5. The conviction or order (*as the case may be*).
6. Other papers (*if any*), naming them.

And I hereby certify to the judge of the county (*or district*) of that I have above truly set forth all the papers and documents in my custody or power relating to the matter set forth in the said notice of appeal.

Dated this day of, 19....

Justice

in and for the

R.S.O. 1960, c. 217, s. 140 (9); 1965, c. 58, s. 77 (3).

Fee of clerk
of court

(9) The appellant shall pay to the clerk of the court for his attendance and services in connection with such appeal the sum of \$2, and it shall be taxed as costs in the cause.

Summons
to be issued
by judge

(10) Within thirty days from the service of the notice of appeal, the judge shall, on the application of an appellant, grant a summons calling upon all parties to attend before him at his chambers on the day and hour named therein, when the hearing of

the appeal will be proceeded with, but, if no such application is made within the thirty days, the judge, upon proof of the failure to make such application, shall order that the appeal be forthwith dismissed with costs.

(11) The appeal shall be heard and determined upon the evidence and proceedings had and taken before the justice to be called the record, and the judge may, upon such hearing, make such order as he thinks fit affirming, reversing or amending the conviction appealed from, and the conviction so made has the same effect and shall be enforced in the same way as if made by the justice whose conviction is appealed from.

Appeal to be
on evidence
before
justice

(12) The practice and procedure upon such appeals and all proceedings thereon shall be governed by *The Summary Convictions Act* so far as it is not inconsistent with this Act.

Application
of
R.S.O. 1970,
c. 450

(13) Any informant or complainant dissatisfied with an order of dismissal made by a justice under this Act may appeal on any ground that involves a question of law alone to the judge of the county or district court in the county or district in which the order complained of was made, and the proceedings shall be the same as nearly as may be as in the case of an appeal by a person convicted under this Act, and the judge has and may exercise the same powers as in the case of an appeal against a conviction, and may make such order as he thinks fit, and the deposit of security in such case shall be dispensed with. R.S.O. 1960, c. 217, s. 140 (10-14).

Appeal from
order of
dismissal

(14) Except as provided by this section, no appeal shall be taken against any conviction or order made by a justice under this Act. R.S.O. 1960, c. 217, s. 140 (16).

Other
appeals not
allowed

115. An appeal to the Court of Appeal against any decision of the judge under section 114 may be taken with leave of the Court of Appeal or a judge thereof on any ground that involves a question of law alone and the provisions of *The Summary Convictions Act* relating to appeals to the Court of Appeal apply *mutatis mutandis*. R.S.O. 1960, c. 217, s. 141.

Appeal to
Court of
Appeal

116. The purpose of this Act and the regulations is to prohibit transactions in liquor except under Government control through the instrumentality of the Board, and to provide the means by which such Government control shall be made effective. 1965, c. 58, s. 78.

General
purpose
of Act

117. In any case of emergency, the Lieutenant Governor may issue a proclamation forbidding any person to have liquor in his possession in the area mentioned in the proclamation unless such person has been authorized in writing by the Board and given special permission thereby to have liquor in that area, and the

Proclama-
tion for-
bidding
possession
of liquor

proclamation may also authorize in such area the seizure without other warrant or authority and detention for such time as is authorized of any liquor not had or kept in such area with the permission of the Board, and the proclamation may remain in force for such period as is therein determined. R.S.O. 1960, c. 217, s. 143.

Effect of
R.S.O. 1970,
c. 250

118. The provisions of this Act and the regulations relating to the sale, purchase, having, supplying, serving and consuming of liquor shall be read and construed subject to *The Liquor Licence Act*. R.S.O. 1960, c. 217, s. 144.

C.T.A.
areas
R.S.C. 1952,
c. 30
Application
of Act upon
C.T.A.
ceasing to
be in force

119.—(1) This Act does not apply in an area in Ontario in which the *Canada Temperance Act* is in force.

(2) Upon the *Canada Temperance Act* ceasing to be in force in an area, this Act, subject to section 70 of *The Liquor Licence Act*, applies in such area. R.S.O. 1960, c. 217, s. 145.

CHAPTER 250

The Liquor Licence Act**1. In this Act,**Interpre-
tation

1. "aircraft" means a machine licensed for the transport of passengers by air and operated by a trans-continental air carrier on a regular or charter flight from any point in Ontario to any point in or outside Ontario;
2. "beer" means beer as defined in *The Liquor Control Act*; R.S.O. 1970,
c. 249
3. "Board" means the Liquor Licence Board of Ontario;
4. "club" means a club,
 - i. that is organized in the manner prescribed by the regulations,
 - ii. that has the special accommodation, facilities and equipment that are prescribed by the regulations,
 - iii. that has for its objects definite purposes of a social, recreational or patriotic nature,
 - iv. that has not fewer than fifty members,
 - v. in which the members whose names and addresses are entered in a list of members and whose dues are paid in the manner prescribed by the rules or by-laws of the club may vote for all purposes of the club,
 - vi. that is not operated for pecuniary gain, and
 - vii. that has been in active operation for not less than one year prior to the issue to it of a licence;
5. "dining lounge" means the part of an establishment that has the special accommodation, facilities and equipment that are prescribed by the regulations where, in consideration of payment, food and the special services that are prescribed by the regulations are regularly furnished to the public and liquor is served with meals;
6. "dining room" means the part of an establishment that has the special accommodation, facilities and equipment that are prescribed by the regulations and that is used exclusively for the serving of regular meals in consideration of payment therefor as well as the sale of cigars, cigarettes, tobacco and other articles incidental to the sale of regular meals;

R.S.O. 1970,
c. 249

7. "establishment" means a club, hotel, inn, resort, public house, tavern, military mess, restaurant, railway car, aircraft, theatre or steamship having premises that comply with the requirements of this Act and the regulations prescribing the qualifications of premises in respect of which licences may be issued;
8. "Government store" means a Government store as defined in *The Liquor Control Act*;
9. "hotel" or "inn" means an establishment in regular operation that has the special accommodation, facilities and equipment that are prescribed by the regulations where, in consideration of payment, food and lodging are regularly furnished to the public and having,
 - i. in municipalities with a population of over 100,000, not less than fifty bedrooms,
 - ii. in municipalities with a population of less than 100,000 and more than 10,000, not less than twenty bedrooms, and
 - iii. in any other part of Ontario, not less than ten bedrooms,and in every case having a sufficient number of bedrooms to serve the needs of the community where the establishment is located;
10. "justice" means a provincial judge, and where no provincial judge is available, means two or more justices of the peace;
11. "last revised list of the municipality" means the voters' list for the municipality as finally revised;
12. "licence" means a licence provided for and issued under this Act;
13. "licenced premises" means premises for which a licence is issued under this Act;
14. "licensing district" means a licensing district constituted under this Act;
15. "liquor" means liquor as defined in *The Liquor Control Act*;
16. "lounge" means the part of an establishment that has the special accommodation, facilities and equipment that are prescribed by the regulations where, in consideration of payment, liquor is served;
17. "military mess" includes a canteen and an institute in a building or camp used for the accommodation of the active or reserve units of the Canadian Armed Forces;

18. "Minister" means the member of the Executive Council to whom for the time being is assigned the administration of this Act;
19. "Ontario wine" means Ontario wine as defined in *The Liquor Control Act*; R.S.O. 1970,
c. 249
20. "permit" means a special occasion permit or a mess and canteen permit;
21. "public house" means an establishment or part of an establishment that has the special accommodation, facilities and equipment that are prescribed by the regulations where, in consideration of payment, beer is served;
22. "railway car" means a railway dining car, railway buffet car, railway club car or a drawing-room, bedroom or compartment in a railway sleeping car;
23. "regulations" means the regulations made under this Act;
24. "resort" means an establishment that has the special accommodation, facilities and equipment that are prescribed by the regulations where, in consideration of payment, food and lodging are furnished to the public and that operates on a seasonal basis as determined by the regulations;
25. "restaurant" means an establishment that is exclusively engaged in the serving of regular meals to the public, in consideration of payment, as well as the sale of cigars, cigarettes, tobacco and other articles incidental to the sale of regular meals;
26. "steamship" means a vessel propelled through water by any power other than muscular power that carries passengers and plies regularly between any port in Ontario and any port in or outside Ontario;
27. "tavern" means an establishment having the special accommodation, facilities and equipment that are prescribed by the regulations for any of the following classes of licences:
 - i. dining lounge licence,
 - ii. dining room licence,
 - iii. lounge licence;
28. "theatre" means an establishment having the special accommodation, facilities and equipment prescribed by the regulations where, in consideration of payment, musical, dramatic or cultural performances are usually staged, but does not include a motion picture theatre;

R.S.O. 1970,
c. 249

29. "wine" means wine as defined in *The Liquor Control Act*. R.S.O. 1960, c. 218, s. 1; 1965, c. 59, s. 1, 1970, c. 126, s. 1, *amended*.

THE BOARD

The Liquor
Licence
Board of
Ontario

- 2.** The Liquor Licence Board of Ontario is continued and shall consist of three members appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 218, s. 2.

Chairman
and vice-
chairman

- 3.** The Lieutenant Governor in Council may designate one of the members of the Board as chairman and another of the members as vice-chairman. R.S.O. 1960, c. 218, s. 3.

Quorum

- 4.** Two members of the Board constitute a quorum. R.S.O. 1960, c. 218, s. 4.

Disqualifi-
cation,
members
and staff

- 5.** No member, registrar, deputy registrar, official, inspector or employee of the Board shall by himself, his partner or agent have any interest directly or indirectly in,

- (a) a person, company, corporation, partnership, syndicate or other organization engaged in the manufacture, sale or distribution of liquor;
- (b) any licensed premises; or
- (c) any contract of any nature in respect of any licensed premises, or any premises upon which liquor is manufactured, produced, sold or kept for sale. R.S.O. 1960, c. 218, s. 5.

Salaries of
Board

- 6.** The members of the Board shall be paid such salaries as may be fixed by the Lieutenant Governor in Council. R.S.O. 1960, c. 218, s. 6.

Staff

- 7.** The staff of the Board shall consist of a registrar, deputy registrars and such officials, inspectors and employees as the Board, with the approval of the Lieutenant Governor in Council, may appoint. R.S.O. 1960, c. 218, s. 7.

Salaries
of staff

- 8.** The registrar, deputy registrars, officers, inspectors and employees of the Board shall be paid such salaries or other remuneration as the Board, with the approval of the Lieutenant Governor in Council, may determine. R.S.O. 1960, c. 218, s. 8.

Special
services

- 9.** When the Board, by virtue of any power vested in it, appoints or directs any person, other than a member of the staff of the Board, to perform any service, such person shall be paid such sum for services and expenses as the Board, with the approval of the Lieutenant Governor in Council, may determine. R.S.O. 1960, c. 218, s. 9.

10. The salaries or other remuneration of the members of the Board, the registrar, deputy registrars, officials, inspectors and employees and all other expenses of the Board shall be paid monthly by the Liquor Control Board of Ontario. R.S.O. 1960, c. 218, s. 10. Payment of salaries

11. No member of the Board, registrar, deputy registrar, official, inspector or employee of the Board is compellable to give testimony in a court of civil jurisdiction with regard to information obtained by him in the discharge of his official duty, or to produce any files, papers, information, reports, correspondence or other documents relating to the business of the Board. R.S.O. 1960, c. 218, s. 11. Officials not compellable to testify

12. The accounts and financial transactions of the Board shall be audited by the Provincial Auditor. 1965, c. 59, s. 2. Audit

LICENSING DISTRICTS

13. The Lieutenant Governor in Council may designate areas in Ontario as licensing districts. R.S.O. 1960, c. 218, s. 13. Licensing districts

PROCEEDINGS BEFORE AND INVESTIGATIONS BY THE BOARD

14. Proceedings before the Board shall be instituted by application and the Board may make such orders, give such directions and issue such certificates as it considers proper or as are necessary or incidental to the exercise of its powers. R.S.O. 1960, c. 218, s. 14. Form of proceedings

15. Where in the opinion of the Board any of the relevant circumstances relating to an application heard by it have altered or new evidence in connection therewith has become available, the Board may review any order made upon such application. R.S.O. 1960, c. 218, s. 15. Review of order

16. For the purpose of any hearing or investigation, the Board has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise and to produce documents, records and things as is vested in the Supreme Court or a judge thereof for the trial of civil actions. R.S.O. 1960, c. 218, s. 16; 1965, c. 59, s. 3. Evidence

17.—(1) The Board may make such investigation as it considers expedient for the due administration of this Act into or respecting, Investigations by Board

- (a) the affairs or conduct of any person holding a licence or of any of his servants, agents or employees;

R.S.O. 1970,
c. 249
1944, c. 33

- (b) any authority at any time issued or held under *The Liquor Control Act* or *The Liquor Authority Control Act, 1944*, or any licence at any time issued or held under this Act, or any premises in respect of which any such authority or licence was at any time issued or held; or
- (c) any matter pertaining to the sale or handling of or transactions in liquor. R.S.O. 1960, c. 218, s. 17 (1); 1965, c. 59, s. 4 (1).

Idem

(2) Where an investigation is or is about to be undertaken under this section, the Board may by order,

- (a) authorize an inspector of the Board to seize and take possession of any documents, records or other property belonging to, in the possession or under the control of any person that the Board considers may be relevant to the investigation; and
- (b) appoint an accountant or other expert to examine documents, records, property or other matters that the Board considers may be relevant to the investigation. R.S.O. 1960, c. 218, s. 17 (2); 1965, c. 59, s. 4 (2).

Special
audit

18.—(1) In addition to any audit provided for by the regulations, the Board may at any time authorize and direct a representative of the Board appointed for that purpose to enter upon the premises where the books, accounts or records of or pertaining to any establishment, distillery, brewery or winery are kept or may be, and to inspect, study, audit, take extracts from or seize such books, accounts or other records. R.S.O. 1960, c. 218, s. 18 (1); 1965, c. 59, s. 5.

Offence

(2) Every person having any book, account or record in his possession or under his control who refuses or fails to produce it or to comply with a request made pursuant to an authorization or direction of the Board given under subsection 1 is guilty of an offence and liable to a fine of not more than \$1,000. R.S.O. 1960, c. 218, s. 18 (2).

Validity of
orders

19. No order, direction, certificate or subpoena or other document of the Board is valid or binding unless it is issued in the name of the Board. R.S.O. 1960, c. 218, s. 19; 1965, c. 59, s. 6.

Finality of
orders

20. Except as provided by this Act, the decisions, orders and rulings of the Board are final and shall not be questioned, reviewed or restrained by injunction, prohibition, mandamus, *quo warranto* proceedings or other process or proceedings in any court, or be removed by *certiorari* or otherwise into any court, but the Board may, or at the request of any person having a proprietary interest in the matter before the Board shall, state a case on a point of law only as provided from time to time in the *Criminal Code* (Canada). R.S.O. 1960, c. 218, s. 20; 1961-62, c. 73, s. 1.

1953-54,
c. 51 (Can.)

LICENCES AND PERMITS

21.—(1) Licences may be issued under this Act for establishments as provided in section 24 and shall be of the following classes and for the purposes indicated: Licences

1. Dining lounge licence, for the sale and consumption of liquor with meals.
2. Dining room licence, for the sale and consumption of beer and wine with meals.
3. Lounge licence, for the sale and consumption of liquor.
4. Public house licence, for the sale and consumption of beer in premises to which men only are admitted.
5. Public house licence, for the sale and consumption of beer in premises to which women only or women escorted by men are admitted as provided by the regulations.
6. Public house licence, for the sale and consumption of beer in premises to which both men and women are admitted, whether singly or escorted.
7. Club licence, for the sale and consumption of liquor with or without meals in an establishment classified as a club.
8. Club licence (restricted), for the sale and consumption of beer and wine with meals and beer without meals in an establishment classified as a club. R.S.O. 1960, c. 218, s. 21 (1); 1970, c. 126, s. 2.

(2) Subject to the provisions of this Act relating to the renewal, suspension and cancellation of licences, every licence expires at midnight on the 31st day of March next following its issue. Expiration of licences

(3) The Board may restrict the number of licences or of any class of licences that it issues in any municipality. R.S.O. 1960, c. 218, s. 21 (2, 3). Number of licences to be issued in municipality

22.—(1) The Board may issue special occasion permits for the serving of liquor on designated premises for functions as provided by the regulations, and may issue any such permit upon such terms and subject to such conditions as it may prescribe. Special occasion permits

(2) Application for a special occasion permit may be made to the registrar or to the deputy registrar for the licensing district in which the function is to be held. 1965, c. 59, s. 7. Application

23.—(1) The Board may issue a mess and canteen permit to the officer commanding any unit, station or establishment of the Canadian Armed Forces that is designated to the Board by the Mess and canteen permit

Minister of National Defence for Canada authorizing him to purchase liquor for consumption in messes and canteens under his control. R.S.O. 1960, c. 218, s. 23 (1), *amended*.

Provincial
jurisdiction
not
conferred

(2) Neither the application for a permit, the issue of a permit nor the designation of a unit, station or establishment by the Minister of National Defence for Canada confers any provincial jurisdiction with respect to such unit, station or establishment or in respect of any mess or canteen.

Jurisdiction
of Board
not
interfered
with

(3) Nothing in this section shall be construed as interfering with the jurisdiction of the Board with respect to a military mess in respect of which a licence is issued under this Act. R.S.O. 1960, c. 218, s. 23 (2, 3).

Licences,
issue

24.—(1) The Board may, subject to this Act and the regulations and to the local option provisions of any Act of the Parliament of Canada or of the Legislature, issue to the owner of an establishment of any of the following classes, a licence or licences of one or more of the classes indicated:

1. Hotels and inns having special accommodation, facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect of which each licence is issued,
 - i. dining lounge licence,
 - ii. dining room licence,
 - iii. lounge licence,
 - iv. public house licence,

and taverns and theatres having special accommodation, facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect of which each licence is issued,

- v. dining lounge licence,
- vi. dining room licence,
- vii. lounge licence,

but the Board shall not issue a dining lounge licence or a lounge licence to a hotel, inn, tavern or theatre situated in a municipality in which such licences have not been issued heretofore to hotels, inns, taverns or theatres unless or until an affirmative vote has been taken on question 7 or 8, as the case may be, of subsection 1 of section 73, and section 73 applies *mutatis mutandis* to such vote whether or not a by-law mentioned in section 71 is in force therein.

2. Military messes, railway cars, aircraft and steamships having special accommodation, facilities and equipment

prescribed by the regulations for the designated parts of the establishment in respect of which each licence is issued,

- i. dining lounge licence,
 - ii. dining room licence,
 - iii. lounge licence,
 - iv. public house licence.
3. Restaurants, having special accommodation, facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect of which the licence is issued, a dining room licence.
 4. Public houses, having special accommodation, facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect of which a licence is issued,
 - i. a public house licence,
 - ii. a dining room licence.
 5. Clubs, having special accommodation facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect of which a licence is issued,
 - i. a club licence,
 - ii. a club licence (restricted).
 6. Resorts having special accommodation, facilities and equipment prescribed by the regulations for the designated parts of the establishment in respect of which a licence is issued,
 - i. dining lounge licence,
 - ii. dining room licence. R.S.O. 1960, c. 218, s. 24 (1); 1965, c. 59, s. 8; 1970, c. 126, s. 3 (1).

(2) The Board shall not issue a dining room licence or a public house licence in any municipality in which such licences have not been issued, except in the case of, Dining room and public house licences

- (a) an establishment in respect of which an authority under *The Liquor Authority Control Act, 1944*, including 1944, c. 33 therein a privilege corresponding to the licence issued under this Act, was held on the 1st day of January, 1947; or
- (b) an establishment classified as a hotel, inn, club, military mess, railway car or steamship,

unless or until an affirmative vote has been taken on question 4, 5 or 6, as the case may be, of subsection 1 of section 73, and section 73 applies *mutatis mutandis* to such vote whether or not a by-law mentioned in section 71 is in force therein. R.S.O. 1960, c. 218, s. 24 (2).

Exception
re resorts

(3) Notwithstanding that an affirmative vote has not been taken therefor under section 73, the Board may issue a dining lounge licence or a dining room licence in respect of a resort. 1970, c. 126, s. 3 (2).

Scope of
licence
may be
restricted

(4) The Board may restrict the scope or effect of any licence or may issue a licence upon such terms and subject to such further conditions as it prescribes. R.S.O. 1960, c. 218, s. 24 (3).

Licences,
certain class
of clubs
R.S.O. 1914,
c. 215

25. Notwithstanding the restrictions and prohibitions imposed by any municipal by-law passed under *The Liquor Licence Act*, being chapter 215 of the Revised Statutes of Ontario, 1914, or this or any other Act relating to the sale of liquor by retail, the Board may issue a club licence or a club licence (restricted) to any club that is affected by any such by-law and that has been in active operation for not less than three years prior to the issue of a licence. 1961-62, c. 73, s. 2; 1965, c. 59, s. 9.

Classifica-
tion of
establish-
ments

26. The Board shall classify all establishments in respect of which a licence is applied for or issued. R.S.O. 1960, c. 218, s. 25.

Classifica-
tion of
establish-
ments
authorized
under
1944, c. 33

27.—(1) The Board may, for the purposes of this Act, classify any establishment in respect of which an authority under *The Liquor Authority Control Act, 1944* was held on the 1st day of January, 1947. R.S.O. 1960, c. 218, s. 26 (1).

Classifica-
tion as
hotel

(2) Where in the opinion of the Board any establishment is serving the needs of the community in the matter of bedroom accommodation, the Board may classify it as a hotel or inn notwithstanding that it does not comply with subparagraph i, ii or iii of paragraph 9 of section 1, but such classification and any licence issued pursuant thereto may be made and issued for a limited time and from time to time and upon such terms and conditions as the Board considers advisable. R.S.O. 1960, c. 218, s. 26 (2); 1965, c. 59, s. 10.

Bedroom
accommo-
dation

28. Except as permitted by the Board, bedroom accommodation that is available to the public in an establishment that is classified by the Board as a public house, restaurant or tavern, shall be rented only for weekly or longer periods. R.S.O. 1960, c. 218, s. 27.

Where issue
of licence
prohibited

29.—(1) No licence may be issued, transferred or renewed under this Act to any person who,

(a) in the opinion of the Board, is not a fit and proper person, or is not the true owner of the business carried on at the premises for which the licence is sought;

- (b) has been convicted of any offence against such of the laws of Canada or Ontario as the regulations prescribe;
- (c) is disqualified under this Act or the regulations or has not complied with the requirements thereof;
- (d) as a constable or other police officer or in any other capacity, is engaged in law enforcement or to any member of the family of any such person residing with him;
- (e) if an individual, is not a Canadian citizen;
- (f) if a corporation, does not comply with this Act and the regulations; or
- (g) if a club, does not comply with this Act and the regulations. R.S.O. 1960, c. 218, s. 28 (1); 1965, c. 59, s. 11.

(2) Every person who applies for the issue, transfer or renewal of a licence and who fails to make full disclosure in the form of application regarding any of the matters referred to in this section and subsection 1 of section 30 is guilty of an offence. Failure to disclose

(3) The information for the prosecution for an offence under subsection 2 shall be laid within one year after the commission of the offence. R.S.O. 1960, c. 218, s. 28 (2, 3). Time for prosecution

30.—(1) No licence may be issued or renewed under this Act, Where issue of licence prohibited

- (a) to a person who is under agreement with any person to sell the liquor of any manufacturer;
- (b) to a manufacturer of liquor, or his agent, or to a person who is so associated or connected therewith, or financially interested therein as to be likely to promote the sale thereof;
- (c) to a person who by reason of any agreement, arrangement, concession, obligation or understanding, verbal or written, or direct or indirect, with any other person is or by reason thereof may be likely to promote the sale of liquor of any manufacturer; or
- (d) for premises in which a manufacturer of liquor has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any chattel property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee. R.S.O. 1960, c. 218, s. 29 (1).

(2) Subsection 1 does not apply to a theatre. 1965, c. 59, s. 12. Theatres excepted

Failure to
disclose

(3) If the existence of any of the conditions indicated in subsection 1, whether such condition existed at the time of the issue of the licence or arises thereafter, is not disclosed to the Board, the non-disclosure is an offence and no action or other proceeding shall be brought or commenced in any court in Ontario in respect of such agreement, arrangement, concession, obligation, undertaking or interest. R.S.O. 1960, c. 218, s. 29 (2).

Information
re corpora-
tions

31. The directors of an incorporated company that applies for the issue, renewal or transfer to it of a licence, shall at the time of making the application or at any other time during the term of the licence, when ordered by the Board, produce such particulars of the officers and shareholders of the company as are required. R.S.O. 1960, c. 218, s. 30.

RIGHTS IN LICENCE

Licence does
not confer
any vested
right

32. No person shall enjoy a vested right in the continuance of a licence. R.S.O. 1960, c. 218, s. 31; 1965, c. 59, s. 13.

ANNUAL MEETING

Meeting to
be held
annually
for each
licensing
district

33. A member of the Board shall hold a meeting annually, at a convenient place determined by the Board, for each licensing district between the 1st day of October and the 31st day of January in the year next following. R.S.O. 1960, c. 218, s. 32.

Notice

34. Notice of the annual meeting in the form prescribed by the regulations shall be published in a newspaper having a general circulation in the licensing district at least ten days before the meeting. R.S.O. 1960, c. 218, s. 33.

Renewal of
licences

35. After a meeting has been held pursuant to section 33, the Board shall review and determine applications for the renewal of licences. R.S.O. 1960, c. 218, s. 34.

SPECIAL MEETINGS

Special
meetings

36.—(1) The Board or a member thereof may hold such special meetings as are considered necessary for the hearing and determination of,

- (a) applications for new licences;
- (b) deferred applications for renewals of licences;
- (c) proceedings involving the cancellation or suspension of a licence;
- (d) applications for transfers of licences;
- (e) proceedings in compensation matters;

- (f) applications for revocation of the suspension of a licence;
- (g) applications for review of orders of the Board; and
- (h) matters within the jurisdiction of the Board.

(2) After a meeting has been held pursuant to subsection 1, the Board shall review and determine the applications or other matters before the Board at such meeting. Idem R.S.O. 1960, c. 218, s. 35.

PROCEEDINGS ON APPLICATIONS

37.—(1) Every application shall be in the form prescribed by the regulations and shall be filed with the deputy registrar of the licensing district in which are located the premises concerning which the application is made at or before the meeting of the Board at which the application is to be heard. Filing of application R.S.O. 1960, c. 218, s. 36 (1); 1965, c. 59, s. 14.

(2) No application for a licence shall be heard at any special meeting until a preliminary application has been heard and approved by the Board. Preliminary application R.S.O. 1960, c. 218, s. 36 (2); 1961-62, c. 73, s. 3.

38. After the preliminary application has been approved under section 37, notice of the application for a licence in the form prescribed by the regulations shall be published twice, Publication of notice

- (a) in a newspaper published in the municipality or community in which the premises for which the licence is sought are situated and having a general circulation in such municipality or community; or
- (b) where no newspaper is published in the municipality or community in which such premises are situated, in a newspaper having a general circulation in such municipality or community,

and such publications shall be at least five clear days apart and the second of such publications shall be not less than fifteen clear days before the meeting of the Board at which the application is to be heard. R.S.O. 1960, c. 218, s. 37; 1961-62, c. 73, s. 4.

39. Where an establishment is licensed under this Act, an application may be made for one or more additional licences of one or more classes that are lawful in the municipality or part thereof in which the establishment is situated without a preliminary application and without the publication of notice of the application as required by sections 37 and 38. Exception 1965, c. 59, s. 15.

40. A licence shall not be issued by the Board unless the applicant therefor appears in person, but an incorporated com- Personal application

pany may be represented by a director, official or manager duly certified as such to the satisfaction of the Board. R.S.O. 1960, c. 218, s. 38.

Renewals

41. Unless otherwise directed by the Board, it is not necessary for an applicant for the renewal of a licence to publish notice of his application or to appear in person before the Board. R.S.O. 1960, c. 218, s. 39.

Objections

42.—(1) Any person resident in a licensing district where the premises concerning which the application is made are situated may object to the application, and the grounds of objection in writing shall be filed with the deputy registrar at least ten days before the meeting at which the application is to be heard.

Applicant
to be
notified

(2) Upon receipt of an objection to an application, the deputy registrar shall notify the applicant thereof. R.S.O. 1960, c. 218, s. 40.

CANCELLATION AND SUSPENSION OF LICENCES

Application
for cancella-
tion

43.—(1) Upon an application being made to the Board for the cancellation or suspension of a licence, the Board may by notice in writing require the holder of the licence to show cause to the Board why the licence should not be cancelled or suspended, and in the event of the failure of the holder of the licence to show cause, the Board shall take such action as the circumstances require. R.S.O. 1960, c. 218, s. 41 (1); 1965, c. 59, s. 16.

Notice to
licence
holder

(2) The notice required by subsection 1 shall be sent by prepaid mail by the Board to the licence holder at his last known address at least seven days before the date of the meeting. R.S.O. 1960, c. 218, s. 41 (2).

Powers of
Board at
hearing

44. Upon the hearing of an application for cancellation of a licence, the Board may dismiss the application or make such order as it considers proper and in any such order may,

- (a) cancel the licence;
- (b) disqualify any person from holding a licence;
- (c) disqualify any premises from being eligible as licensed premises; and
- (d) impose such conditions upon the holder of the licence as the circumstances require. R.S.O. 1960, c. 218, s. 42.

When li-
cence to be
cancelled
R.S.O. 1970,
c. 249

45. The Board shall cancel a licence,

- (a) if the licence holder persistently fails to comply with this Act or *The Liquor Control Act* or the regulations hereunder or thereunder; or

- (b) if the licence holder persistently fails to carry out the orders of the Board, the Liquor Control Board of Ontario or the Fire Marshal of Ontario; or
- (c) if the licence holder persistently fails to keep the licensed premises in a clean and sanitary condition; or
- (d) if the licence holder persistently fails to comply with any municipal by-law affecting the licensed premises; or
- (e) if any of the circumstances exist that under subsection 1 of section 29 or subsection 1 of section 30 prevent the issue of a licence; or
- (f) if the licence holder is bankrupt or if a mortgagee enters into possession of the licensed establishment, but, notwithstanding sections 37 and 38, the Board may issue a temporary licence to a trustee in bankruptcy or a mortgagee in possession for not more than six months in order that he may dispose of the licensed establishment. R.S.O. 1960, c. 218, s. 43; 1961-62, c. 73, s. 5.

46. Any licence holder whose licence is cancelled under section 44 or 45 may appeal from the order of the Board cancelling the licence, and the provisions of *The Liquor Control Act* relating to appeals apply *mutatis mutandis* to the appeal. 1961-62, c. 73, s. 6. Right of appeal
R.S.O. 1970,
c. 249

47. The Board may suspend any licence or permit issued under this Act and shall give reasons therefor at the time of the hearing. R.S.O. 1960, c. 218, s. 44. Powers of Board to suspend licences, etc.

TRANSFER OF LICENCES

48.—(1) No licence shall be transferred except with the consent in writing of the Board and the Board is not under any circumstances bound to give such consent. Transfer of licences

(2) Upon a transfer of a licence, the transferor shall pay to the Liquor Control Board of Ontario at the time of the transfer such fee as the regulations prescribe. Transfer fee

(3) The amount payable to the Liquor Control Board of Ontario under subsection 2 constitutes a debt due to the Liquor Control Board of Ontario and is recoverable by action in any court of competent jurisdiction. Amount payable to L.C.B.O. constitutes debt due Board

(4) A notice in the prescribed form of the amount payable under subsection 2 may be registered against the lands upon which the premises in respect of which the licence was issued are situate in the proper registry or land titles office, and upon registration, the notice operates as a charge against such lands and the buildings thereon. Registration of notice

Transfer of licence, when deemed final

(5) The transfer of a licence shall not be deemed to be final until the amount of the transfer fee has been paid in full. R.S.O. 1960, c. 218, s. 45.

Issue or transfer of shares of corporation

49. The Board may require the directors of an incorporated company that is the holder of a licence to present to the Board for approval any issue or transfer of shares of its capital stock, and where in the opinion of the Board a substantial interest is issued or transferred, subsection 2 of section 48 applies *mutatis mutandis*. R.S.O. 1960, c. 218, s. 46; 1965, c. 59, s. 17.

Power of Board to purchase premises

50.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board has the right to purchase any licensed premises or any shareholding interest therein at the price and on the terms stipulated in any agreement for sale, offer for sale or transfer coming before the Board for its consent under section 48, and the Board may exercise such right by serving notice in writing thereof upon the vendor.

Payment of purchase price

(2) Whenever the Board has exercised the right of purchase mentioned in subsection 1, the purchase price or any part thereof necessary to complete the transaction shall be paid by the Treasurer of Ontario out of the net profits of the Liquor Control Board of Ontario upon the requisition of the Board.

Board may sell licensed premises

(3) Subject to the approval of the Lieutenant Governor in Council, the Board may sell any licensed premises or any shareholding interest acquired under this section. R.S.O. 1960, c. 218, s. 47.

COMPENSATION FOR DISQUALIFICATION

Compensation may be awarded

51.—(1) Where the Board disqualifies any premises from holding a licence for a cause that is not the fault of or is beyond the control of the licence holder, it may, subject to the approval of the Lieutenant Governor in Council, award by way of compensation to the owner of the premises or to the holder of the licence, as the Board sees fit, a sum not exceeding the amount by which the value of the capital investment is depreciated by reason of the disqualification of such premises, which sum shall be determined by a fee, schedule or other method of valuation prescribed by the regulations.

Payment

(2) The Liquor Control Board of Ontario shall pay the compensation mentioned in subsection 1 upon the requisition of the Board. R.S.O. 1960, c. 218, s. 48.

REVENUE

Payment of revenue

52. All moneys received by the Board from licence fees or otherwise arising in the administration of this Act shall be paid to the Liquor Control Board of Ontario. R.S.O. 1960, c. 218, s. 49.

SALE OF LIQUOR IN LICENSED PREMISES

53. No liquor shall be kept for sale, sold or served in any licensed premises except such liquor as is, What liquor may be sold

(a) prescribed in the licence; and

(b) purchased by the holder of the licence in accordance with *The Liquor Control Act* and the regulations thereunder. R.S.O. 1970, c. 249 R.S.O. 1960, c. 218, s. 50.

54. The Board shall in every licence issued specify the part of the establishment to which the sale, serving and consumption of liquor is restricted and confined. Sale of liquor in specified places only R.S.O. 1960, c. 218, s. 51.

55. Except as permitted by the Board, where two premises are issued public house licences in an establishment, each of such premises shall have separate entrances for the public. Public house licences, where two issued for an establishment 1961-62, c. 73, s. 7.

56.—(1) No liquor shall knowingly be sold or served in or at any licensed premises to any person who is under the age of twenty-one years. Minors R.S.O. 1960, c. 218, s. 53 (1).

(2) No liquor shall be sold or supplied to a person who is apparently under the age of twenty-one years, and in any prosecution for a contravention of this subsection the justice shall determine from the appearance of any such person and other relevant circumstances whether such person is apparently under the age of twenty-one years. Idem R.S.O. 1960, c. 218, s. 53 (2); 1965, c. 59, s. 18.

(3) No liquor shall be sold or supplied on or at any licensed premises to or for any person who is apparently in an intoxicated condition. Intoxicated persons

(4) No person holding a licence under this Act shall permit or suffer in the premises for which the licence is issued, Conduct of premises

(a) any constable or other police officer while on duty to consume any liquor;

(b) any gambling, drunkenness or any riotous, quarrelsome, violent or disorderly conduct to take place;

(c) any person of notoriously bad character to remain; or

(d) any slot machine or any device used for gambling to be placed, kept or maintained.

(5) No person holding a licence under this Act shall permit or suffer any person under or apparently under the age of twenty-one years to enter or be upon that part of the licensed premises where liquor is sold or kept for sale, except in a dining room or dining lounge. Minors on premises

Objection-
able persons

(6) Any person holding a licence under this Act who has reasonable grounds to suspect from the conduct of any person who has come upon the premises in respect of which such licence is issued that such person, although not of notoriously bad character, is present for some improper purpose or is committing an offence against this Act or the regulations, may request such person to leave the licensed premises immediately and, unless the request is forthwith complied with, such person may be forcibly removed. R.S.O. 1960, c. 218, s. 53 (3-6).

Minors

57.—(1) No person under the age of twenty-one years shall have, purchase or consume liquor on any licensed premises.

Idem

(2) Any person under the age of twenty-one years who enters or is found upon that part of a licensed premises where liquor is sold or kept for sale, except in a dining room or dining lounge, is guilty of an offence against this Act. R.S.O. 1960, c. 218, s. 54.

Sale and
consump-
tion

58. No liquor may be sold or served to any person or consumed by him in any licensed premises except in accordance with the regulations. R.S.O. 1960, c. 218, s. 55.

Neglecting
children

59. No person who is a parent, guardian or head of a family having the care, custody and control of a child under the age of eight years shall enter or remain upon any premises where liquor is sold or kept for sale while such child is unattended by a competent person. R.S.O. 1960, c. 218, s. 56.

Induce-
ments to
licensees

60.—(1) No distillery, brewery, winery or person shall, either directly or indirectly, offer or give any financial or material inducement to any licensee or his agent or employee for the purpose of increasing the sale or distribution of any brand of liquor, whether such inducement is by way of discount, rebate, sale under the established price for products of the same or a similar quantity, or by the installation of equipment or other form of payment or benefit.

Induce-
ments,
taking of,
prohibited

(2) No licensee, his agent or employee shall, either directly or indirectly, request, demand or receive any financial or material inducement, discount or rebate mentioned in subsection 1. R.S.O. 1960, c. 218, s. 57.

Sales to
interdicted
persons
prohibited

61. No person to whom the sale of intoxicating liquor is prohibited by statute of Canada or Ontario and no interdicted person shall enter on or be permitted or suffered to remain in that part of any licensed premises where liquor is sold, except in a dining room or dining lounge. R.S.O. 1960, c. 218, s. 58.

Arrest
without
warrant

62. Any constable or other police officer may arrest without warrant any person whom he finds committing an offence against this Act or the regulations. R.S.O. 1960, c. 218, s. 59.

PENALTIES AND PROCEDURE

63. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence against this Act whether otherwise so declared or not. R.S.O. 1960, c. 218, s. 60. Offence

64.—(1) Every person who contravenes subsection 1 of section 56 is guilty of an offence and liable to a fine of not more than \$3,000 or to imprisonment for a term of not more than six months, or to both. 1965, c. 59, s. 19 (1). Penalties,
s. 56 (1)

(2) Every person who contravenes subsection 1 of section 60 is guilty of an offence and liable to a fine of not more than \$10,000. Idem
s. 60 (1)

(3) Every person who contravenes subsection 2 of section 60 is guilty of an offence and liable to a fine of not more than \$1,000. R.S.O. 1960, c. 218, s. 61 (2, 3). Idem,
s. 60 (2)

(4) Every person who contravenes any of the provisions of this Act or the regulations for which no penalty has been specifically provided is guilty of an offence and liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both. 1965, c. 59, s. 19 (2). Idem,
general

(5) Where an offender convicted of an offence referred to in this section, other than a contravention of section 60, is a corporation, it is liable to a fine of not less than \$5,000 and not more than \$25,000. R.S.O. 1960, c. 218, s. 61 (5); 1965, c. 59, s. 19 (3). Corporations

65. In any prosecution under this Act or the regulations, upon production by a constable or other police officer of a certificate or report signed or purporting to be signed by a federal or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, the certificate or report is conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making it without any proof of appointment or signature. R.S.O. 1960, c. 218, s. 64. Analysis

66. The justice trying a case is at liberty to infer, in the absence of proof to the contrary, that the liquor in question is intoxicating from the fact that a witness describes it as intoxicating, or by a name that is commonly applied to an intoxicating liquor. R.S.O. 1960, c. 218, s. 65. Inference
as to in-
toxicating
liquor

67.—(1) The penalties imposed by or under the authority of this Act are recoverable under *The Summary Convictions Act* and the provisions of that Act apply to prosecutions thereunder, except that the provisions of *The Liquor Control Act* relating to appeals apply to appeals under this Act. Recovery
of penalties
R.S.O. 1970,
cc. 450, 249

Fines to be
paid to
Liquor
Control
Board

(2) Subject to section 88, all money penalties imposed under this Act or the regulations, after deducting all necessary costs, shall be paid by the justice to the Liquor Control Board of Ontario. R.S.O. 1960, c. 218, s. 66.

CIVIL LIABILITY

Civil
liability

68. Where any person or his servant or agent sells liquor to or for a person whose condition is such that the consumption of liquor would apparently intoxicate him or increase his intoxication so that he would be in danger of causing injury to his person or injury or damage to the person or property of others, if the person to or for whom the liquor is sold while so intoxicated,

R.S.O. 1970,
c. 164

- (a) commits suicide or meets death by accident, an action under *The Fatal Accidents Act* lies against the person who or whose servant or agent sold the liquor; or
- (b) causes injury or damage to the person or property of another person, such other person is entitled to recover an amount to compensate him for his injury or damage from the person who or whose servant or agent sold the liquor. R.S.O. 1960, c. 218, s. 67.

EMPLOYEES OF LICENCE HOLDERS

Employees
of licence
holders

69.—(1) The Board may require every person who, being an employee of a person who operates licensed premises, is in any way engaged in selling or serving liquor, to obtain an employee's licence from the Board in accordance with the regulations.

Sale by
licensed
employees

(2) Where, as provided by subsection 1, employees are required by the Board to obtain an employee's licence, no person who is not so licensed shall be employed in the sale or serving of liquor in any licensed premises. R.S.O. 1960, c. 218, s. 68.

LOCAL OPTION

Areas where
C.T.A. in
force
R.S.C. 1952,
c. 30
Application
of Act upon
C.T.A.
ceasing to
be in force

70.—(1) None of the provisions of this Act, except section 23, apply in any area in which the *Canada Temperance Act* is in force.

(2) Upon the *Canada Temperance Act* ceasing to be in force in any area, this Act applies in such area, but,

- (a) in an area where a by-law prohibiting the sale of liquor by retail passed under any Act of the Legislature was in force when the *Canada Temperance Act* or *The Ontario Temperance Act* came into force, no Government stores for the sale of liquor or for the sale of beer only shall be established, no Ontario wine stores shall be authorized and no licences shall be issued until a vote has been taken in the manner provided in section 73; and

R.S.O. 1916,
c. 50

- (b) in an area where no by-law prohibiting the sale of liquor by retail passed under any Act of the Legislature was in force when the *Canada Temperance Act* or *The Ontario Temperance Act* came into force, no licences shall be issued in respect of an establishment classified as a hotel, tavern, restaurant or public house until a vote has been taken in the manner provided in section 73.

R.S.O. 1916,
c. 50
R.S.C. 1952,
c. 30

(3) In every area to which subsection 2 applies, the provisions of section 73 apply *mutatis mutandis* to a vote referred to in subsection 2 that is taken in any municipality therein, notwithstanding that a by-law mentioned in section 71 is not in force in such municipality. R.S.O. 1960, c. 218, s. 69.

Machinery
for vote

71. Except as provided by this Act and the regulations, no Government store for the sale of liquor shall be established, no Ontario wine store shall be authorized and no premises shall be licensed in any municipality or part of a municipality in which at the time of the coming into force of *The Ontario Temperance Act* a by-law passed under *The Liquor Licence Act*, being chapter 215 of the Revised Statutes of Ontario, 1914, or any other Act was in force prohibiting the sale of liquor by retail until a vote has been taken in the manner provided in section 73. R.S.O. 1960, c. 218, s. 70.

Government
stores and
wine stores
not to be
established
in certain
districts
R.S.O. 1914;
c. 215

72.—(1) In any municipality to which section 71 does not apply and in which no Government store for the sale of liquor or for the sale of beer only has been established and no Ontario wine store has been authorized and no premises have been licensed, the council may, and on petition as provided by section 73 shall, submit to the electors all or any of the questions in section 73.

Provision
for vote in
certain cir-
cumstances

(2) If three-fifths of the electors voting on a question vote in the negative, no Government store for the sale of liquor or for the sale of beer only shall be established or no Ontario wine store shall be authorized or no premises shall be licensed, as the case may be, in the municipality. R.S.O. 1960, c. 218, s. 71.

Where
negative
vote polled

73.—(1) The council of any municipality in which a by-law mentioned in section 71 is in force or a vote has been taken under section 72 may submit to a vote of the persons qualified to be entered on the voters list and to vote at elections to the Assembly in the municipality, any of the following questions:

Submission
of question

1. Are you in favour of the establishment of Government stores for the sale of liquor?
2. Are you in favour of the establishment of Government stores for the sale of beer only for residence consumption?

3. Are you in favour of the authorization of Ontario wine stores for the sale of Ontario wine only for residence consumption?
4. Are you in favour of the sale of beer only under a public house licence for consumption on licensed premises to which women are admitted?
5. Are you in favour of the sale of beer only under a public house licence for consumption on licensed premises to which men only are admitted?
6. Are you in favour of the sale of beer only under a public house licence for consumption on licensed premises to which both men and women may be admitted whether singly or escorted?
7. Are you in favour of the sale of beer and wine only under a dining room licence for consumption with meals on licensed premises?
8. Are you in favour of the sale of liquor under a dining lounge licence for consumption with meals on licensed premises?
9. Are you in favour of the sale of liquor under a lounge licence for consumption on licensed premises? R.S.O. 1960, c. 218, s. 72 (1); 1970, c. 126, s. 4 (1).

Petition
requesting
submission
of questions

(2) Where a petition in writing signed by at least 25 per cent of the total number of persons appearing by the last revised list of the municipality to be resident in the municipality and qualified to vote at elections to the Assembly, requesting the council to submit one or more of the questions set out in subsection 1 is filed with the clerk of the municipality and with the Board, the council shall submit such question or questions to a vote of the electors.

Where
affirmative
vote
polled

(3) Where three-fifths of the electors voting on the question vote in the affirmative, it is lawful to establish Government stores, authorize Ontario wine stores or issue licences in the municipality accordingly. R.S.O. 1960, c. 218, s. 72 (2, 3).

Where
public
house
licence may
be issued
without vote

(4) In municipalities where, immediately before the 13th day of November, 1970, it was lawful to issue licences referred to in both paragraphs 4 and 5 of subsection 1 of section 21, it is lawful to issue the licence referred to in paragraph 6 of subsection 1 notwithstanding that no affirmative vote has been taken thereon under this section and subject to section 74. 1970, c. 126, s. 4 (2), *amended*.

Submission
of questions
as to
continuance
of stores

74.—(1) Where a Government store is established, an Ontario wine store authorized, or premises licensed in a municipality, the council may, and on petition as provided in section 73, which

section applies *mutatis mutandis*, shall submit to the electors whichever of the following questions are applicable:

1. Are you in favour of the continuance of Government stores for the sale of liquor?
2. Are you in favour of the continuance of Government stores for the sale of beer only for residence consumption?
3. Are you in favour of the continuance of the authorization of Ontario wine stores for the sale of Ontario wine only for residence consumption?
4. Are you in favour of the continuance of the sale of beer only under a public house licence for consumption on licensed premises to which women are admitted?
5. Are you in favour of the continuance of the sale of beer only under a public house licence for consumption on licensed premises to which men only are admitted?
6. Are you in favour of the continuance of the sale of beer only under a public house licence for consumption on licensed premises to which both men and women are admitted whether singly or escorted?
7. Are you in favour of the continuance of the sale of beer and wine only under a dining room licence for consumption with meals on licensed premises?
8. Are you in favour of the continuance of the sale of liquor under a dining lounge licence for consumption with meals on licensed premises?
9. Are you in favour of the continuance of the sale of liquor under a lounge licence for consumption on licensed premises? R.S.O. 1960, c. 218, s. 73 (1); 1970, c. 126, s. 5.

(2) Where three-fifths of the electors voting on the question or questions vote in the negative, from and after the 31st day of March in the following year, any Government store established in the municipality shall be closed, the authority of any Ontario wine store authorized in the municipality shall be terminated or licences of any class for premises in the municipality shall be discontinued, as the case may be, in accordance with the question or questions submitted and voted upon. R.S.O. 1960, c. 218, s. 73 (2).

75. Where petitions are presented praying for the submission of a definite question or set of questions, the question or questions to be submitted shall be that or those asked for in the first petition filed, unless the Board otherwise directs. R.S.O. 1960, c. 218, s. 74.

Where
negative
vote polled

Questions
to be
submitted

Questions
not to be
submitted
again for
three years

76. Where a question is submitted in a municipality under section 72, 73 or 74, neither that question nor any other question shall be submitted in the municipality until after the expiration of a period of three years from the date of such submission. R.S.O. 1960, c. 218, s. 75.

Appoint-
ment of
managers
for vote

77.—(1) At least five weeks before the taking of a vote upon any question under section 72, 73 or 74 the electors interested in obtaining an affirmative answer and a negative answer respectively to the question or questions may notify the returning officer in writing, signed by at least twenty-five electors, that they have appointed a manager for their side of the question or questions and the manager may appoint agents at the polling places and generally has all the powers and shall perform all the duties and is subject to the like provisions as far as practicable as a candidate at an election to the Assembly, and in case more than one person is named as manager, the first person named on either side shall be manager.

Notice of
filing of
petition

(2) When a petition has been filed with the clerk of the municipality pursuant to section 72, 73 or 74, the clerk shall give notice in writing of the filing to each of the managers, and the managers are, for a period of four weeks from the date of such notice, entitled to examine and inspect the petition. R.S.O. 1960, c. 218, s. 76.

Date of
polling
R.S.O. 1970,
c. 284

78. The day fixed for taking the vote on any question or questions shall be the day upon which under *The Municipal Act*, or any by-law passed under that Act, a poll would be held at the annual election of members of the council of the municipality, unless the Board fixes some other day and notifies the clerk of the municipality to that effect, but a poll shall not be held on any such question or questions until after the expiration of two months from the passing of a by-law for submitting the question or questions where the council submits the question or questions without a petition, nor until after the expiration of two months from the filing of the petition, as the case may be. R.S.O. 1960, c. 218, s. 77.

Who may
vote

79. The persons qualified to vote upon a question or questions are such persons as are named upon the polling list and would be qualified in other respects to vote at an election to the Assembly held on the day fixed for taking the poll upon the question or questions; provided that in the event of the taking of a vote under section 74, notwithstanding anything contained in any Act, persons resident in any part of a municipality in which at the time of the coming into force of *The Ontario Temperance Act* a by-law under *The Liquor Licence Act*, being chapter 215 of the Revised Statutes of Ontario, 1914, or under any other Act was in force

R.S.O. 1916,
c. 50
R.S.O. 1914,
c. 215

prohibiting the sale of liquor by retail, are not entitled to sign a petition pursuant to this section, except a petition respecting only such part of the municipality, and are not entitled to vote on the said question or questions until a vote has been taken in such part of the municipality on one or more of the questions set out in subsection 1 of section 73, and three-fifths of the electors voting on such question or questions have voted in the affirmative. R.S.O. 1960, c. 218, s. 78.

30.—(1) Except as otherwise provided by this Act, the provisions of *The Election Act* respecting,

Application
of general
law
R.S.O. 1970,
c. 142

- (a) the preparation and revision of the lists;
- (b) the time and manner of holding the poll;
- (c) the holding of advance polls;
- (d) the forms to be used and the oaths to be administered;
- (e) the powers and duties of returning officers, deputy returning officers and poll clerks,

and all the provisions relating to corrupt practices, illegal acts, offences and penalties and their prosecutions apply to the taking of a vote under this Act.

(2) Subject to the approval of the Lieutenant Governor in Council, the Chief Election Officer shall give such directions and make such regulations and prepare such forms as appear to him to be necessary in carrying out sections 71 to 84 and for the guidance of returning officers and other officers and persons employed in the taking of the vote, and may modify or alter any of the provisions of *The Election Act* when compliance therewith appears to be inconvenient, impracticable or unnecessary and may make due provision for circumstances that may arise and that are not provided for or contemplated by sections 71 to 84.

Directions
as to taking
vote

(3) The forms to be used at the taking of the vote upon a question or questions shall be the same as nearly as may be as the forms used at an election to the Assembly, but such forms may be modified and altered to such extent as is necessary. R.S.O. 1960, c. 218, s. 79 (1-3), *amended*.

Forms

31.—(1) The voters' lists shall be revised as provided in *The Election Act* with respect to the revision of the lists at an election to the Assembly, and polling lists shall be prepared as provided by *The Election Act*.

Revision
of lists

(2) It is not necessary for the polling lists for use at the taking of a vote to be printed, nor is it necessary to prepare more copies

Polling
lists

than are required to provide one copy of the list for each polling place, one copy for the returning officer and two copies for persons representing those supporting the affirmative and negative respectively. R.S.O. 1960, c. 218, s. 80, *amended*.

Fees and
expenses

82. The fees and expenses to be allowed to returning officers and other officers and servants for services performed under sections 71 to 84, and the expenses incurred in carrying out such sections, shall be fixed by the Lieutenant Governor in Council and shall be paid by the treasurer of the municipality to the persons entitled thereto. R.S.O. 1960, c. 218, s. 81, *amended*.

Returning
officer

83.—(1) The returning officer upon the taking of a vote shall be the clerk of the municipality, or, in case of his inability to act or of a vacancy in the office, some person to be appointed by by-law of the municipal council.

Return to
Chief
Election
Officer

(2) The returning officer shall make his return to the Chief Election Officer showing the number of votes polled for the affirmative and negative on the question or questions submitted and, upon the receipt of such return, the Chief Election Officer shall make his return to the Lieutenant Governor in Council and give notice thereof in *The Ontario Gazette* showing the total number of votes polled in the municipality for the affirmative and negative upon the question or questions. R.S.O. 1960, c. 218, s. 82.

Where
validity of
vote
questioned
R.S.O. 1970,
cc. 284, 142

84.—(1) Notwithstanding anything in this or any other Act, where the validity of a vote on any question or questions submitted under this Act is questioned, the provisions of Part IV of *The Municipal Act* relating to proceedings to declare a seat vacant, apply *mutatis mutandis*, except that no vote under this Act shall be set aside or declared invalid for any reason set out in section 92 of *The Election Act*, and any notice of motion required under that Part shall be served on such person as the judge or master, as defined in that Part, may direct. R.S.O. 1960, c. 218, s. 83 (1); 1965, c. 59, s. 21.

Recounts

(2) Notwithstanding anything in this or any other Act, where a recount of a vote on any question or questions submitted under this Act is requested, sections 122 and 123 of *The Municipal Act* apply *mutatis mutandis*. R.S.O. 1960, c. 218, s. 83 (2).

AMALGAMATIONS, ETC.

Amalgama-
tions,
annexations
not to affect
status quo
under Act

85.—(1) No amalgamation of a municipality with another municipality and no annexation of the whole or a part of a municipality to another municipality affects the operation of this Act at the time of the amalgamation or annexation in the

municipality amalgamated or municipality or part annexed or elsewhere until such operation is affected pursuant to a vote under this Act in the municipality amalgamated or municipality or part annexed, as the case may be.

(2) The persons qualified to vote upon any question or questions or to sign a petition pursuant to section 73 or 74 are the persons who are resident in the municipality amalgamated or municipality or part annexed, as the case may be, and who are qualified to be entered on the voters list and to vote at elections to the Assembly. R.S.O. 1960, c. 218, s. 84. Who
entitled
to vote

REGULATIONS

86. The Board, with the approval of the Lieutenant Governor in Council, may make such regulations with respect to any and all matters and things provided for in this Act as the Board considers necessary, and without limiting the generality of the foregoing, such powers extend to and include, Regulations

- (a) prescribing the special accommodation, facilities and equipment that shall be required in or in respect of the various classes of premises for which the various classes of licence may be issued including the prescribing of different standards of accommodation, facilities and equipment in different classes of establishments;
- (b) providing for different classes of clubs and prescribing the manner in which clubs of the different classes shall be organized and the special accommodation, facilities and equipment that shall be required, and in the case of any class of clubs, prescribing who shall be deemed to be members thereof for the purposes of this Act;
- (c) prescribing the special services that shall be furnished in a dining lounge;
- (d) restricting the classes of licences that may be issued to any class of establishments;
- (e) restricting the scope and effect of licences of the various classes and prescribing terms and conditions governing the sale of liquor and other relevant matters relating to the operation of premises for which licences of the various classes are issued;
- (f) prescribing the fees payable in respect of the issue and transfer of licences, including the prescribing of fees in varying amounts for licences issued in respect of various classes of establishments;
- (g) prescribing the fees payable in respect of applications;

- (h) prescribing the fees, schedules or other methods of valuation by which monopoly value and depreciation shall be determined for the purposes of sections 48 and 51;
- (i) governing and regulating premises in respect of which licences may be issued;
- (j) determining what is a seasonal basis in respect of the operation of a resort for the purposes of paragraph 24 of section 1;
- (k) governing the issue, renewal, transfer, refusal, suspension and cancellation of licences;
- (l) governing the location, construction, maintenance, management and operation of licensed premises;
- (m) governing the issue and cancellation of special occasion or military mess permits and prescribing the fees payable in respect of the issue of such permits;
- (n) governing the purchase, delivery, keeping for sale, sale, serving and consuming of liquor;
- (o) prescribing the persons to whom the sale of liquor is to be restricted or prohibited;
- (p) prescribing the periods of the year and the days and hours when liquor may be sold, served and consumed and providing for the alteration thereof by the Board in respect of individual holders of a licence or in any municipality or prescribed area;
- (q) providing for the licensing of employees of persons operating licensed premises and prescribing requirements applicable to such employees;
- (r) prescribing the books and records to be kept, returns to be made and information to be furnished with respect to licensed premises and the examination and audit that shall be made of such books and records;
- (s) prescribing the duties of the registrar, deputy registrars, officials, inspectors and employees of the Board and the books of account and other records to be kept by the Board;
- (t) prescribing the signs that may be erected on or in licensed premises;
- (u) prescribing the hours and days upon which and the manner, methods and means by which liquor shall be delivered to licensed premises;

- (v) prescribing the offences against the laws of Canada and Ontario, conviction of which by any person shall disqualify him from holding a licence;
- (w) governing the manner of incorporation of corporations that may hold licences;
- (x) prescribing the procedure to be followed upon applications to the Board;
- (y) prescribing the form of ballots to be used for voting upon a question submitted in a municipality; and
- (z) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 218, s. 85; 1965, c. 59, s. 22; 1970, c. 126, s. 6.

REPORTS

87.—(1) The Board shall from time to time make reports to Reports the Lieutenant Governor in Council covering such matters in connection with the administration of this Act as he may require, and shall annually make to the Lieutenant Governor in Council, through the Minister, a report for the twelve months ending on the 31st day of March in the year in which the report is made, which shall contain,

- (a) a statement of the operations of the Board;
- (b) a statement of the number of licences in existence and the names of the owners thereof at such 31st day of March;
- (c) a detailed statement of the number of licences which were issued, renewed, transferred, cancelled or suspended and the names of the owners thereof;
- (d) the details of any compensation awarded;
- (e) a statement of the expenses of the Board;
- (f) general information and remarks as to the working of the Act; and
- (g) any information requested by the Minister.

(2) Every annual report shall be laid before the Assembly as Report to be presented to Assembly soon as may be. R.S.O. 1960, c. 218, s. 86.

AGREEMENT WITH MUNICIPALITY

88. Subject to the approval of the Lieutenant Governor in Agreement with municipality Council, the Board may enter into an agreement with the council of any municipality for the enforcement in the municipality by

R.S.O. 1970,
c. 249

the council of this Act, *The Liquor Control Act* and the regulations hereunder and thereunder, and may in such agreement provide for the payment to the council of,

- (a) a portion of the fees for licences issued in respect of establishments in the municipality; and
- (b) the fines or a portion of the fines imposed in prosecutions instituted by officers designated by the council pursuant to the agreement, for a contravention of this Act, *The Liquor Control Act* or the regulations hereunder or thereunder in the municipality. R.S.O. 1960, c. 218, s. 87.

R.S.O. 1970,
c. 249

CHAPTER 251

**The Live Stock and Live Stock Products
Act****1. In this Act,**Inter-
pre-
tation

- (a) "commission merchant" means a person, partnership, corporation or co-operative association engaged in the business of buying or selling live stock or live stock products for a commission;
- (o) "Commissioner" means the Live Stock Commissioner;
- (c) "grade" means the classification of any live stock or live stock product according to the prescribed standards;
- (d) "inspector" means an inspector appointed for the purposes of this Act;
- (e) "live stock" means cattle, swine, sheep or live poultry;
- (f) "live stock product" means meat, raw hides, dressed poultry, eggs or wool;
- (g) "Minister" means the Minister of Agriculture and Food;
- (h) "regulations" means the regulations made under this Act;
- (i) "shipper" means a person who assembles, ships, transports or offers for sale any live stock or live stock product on his own account or as an agent;
- (j) "stock yard" means any premises used as a market for purchasing and selling live stock designated a stock yard in the regulations. R.S.O. 1960, c. 219, s. 1, *amended*.

2. The Lieutenant Governor in Council may authorize one or more persons engaged in the production or marketing of live stock or live stock products to act as an advisory committee with the Minister or his representatives in connection with the production or marketing of any live stock or live stock product. R.S.O. 1960, c. 219, s. 2.

Advisory
committee

3. The Lieutenant Governor in Council may appoint one or more inspectors for the purposes of this Act and may fix their remuneration and allowance for expenses. R.S.O. 1960, c. 219, s. 3.

Appoint-
ment of
inspectors

Power of
inspectors

4.—(1) Any inspector, for the purpose of enforcing this Act and the regulations, may,

- (a) enter any place, premises or vehicle containing or used for the storage or carriage of any live stock or live stock product;
- (b) stop on a highway any vehicle that he believes to contain any live stock or live stock product and inspect the vehicle and any live stock or live stock product found therein;
- (c) require the production of any books, records or other documents relating to any live stock or live stock product or the furnishing of copies of or extracts from such books, records or other documents;
- (d) take samples of any live stock product in the manner prescribed in the regulations;
- (e) delay the shipment of any live stock or live stock product for the time necessary to complete his inspection thereof;
- (f) refuse to inspect or mark or give any certificate respecting any live stock or live stock product found in any place, premises or vehicle considered by him to be unsanitary or unsuitable for inspection purposes;
- (g) seize and detain any live stock or live stock product that has been manufactured, packed, branded, labelled, marked, shipped or transported in contravention of this Act or the regulations, and, subject to any order made by the Minister under section 5, require the owner to remove such live stock or live stock product from the place of detention at the expense of the owner.

Obstruction

(2) No person shall obstruct any inspector in the performance of his duties or refuse to permit the inspection of any live stock or live stock product or furnish any inspector with false information.

Production
of records

(3) Every person shall, when required by an inspector, produce any books, records or other documents relating to any live stock or live stock product or copies of or extracts from such books, records or other documents. R.S.O. 1960, c. 219, s. 4.

Disposal
of seized
live stock,
etc.

5.—(1) Any live stock or live stock product seized or detained by an inspector shall be disposed of as the Minister may direct.

Live stock
seized and
detained at
expense of
owner, etc.

(2) Any live stock or live stock product seized, detained or disposed of under this Act is at the risk and expense of the owner thereof, and the inspector shall immediately notify the owner that such live stock or live stock product has been seized, detained or disposed of, as the case may be. R.S.O. 1960, c. 219, s. 5.

6.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) establishing and describing standards for the purpose of grading any live stock or live stock product;
- (b) providing for the issue of grading certificates and prescribing the form thereof;
- (c) prescribing the manner in which samples of any live stock product may be taken for inspection;
- (d) providing for and prescribing the manner and conditions of grading, inspection, packing, branding and marking of any live stock or live stock product;
- (e) prescribing the manner in and the conditions under which any live stock or live stock product shall be stored, transported, delivered, shipped, advertised, purchased, sold, offered or displayed for sale and the types, sizes, branding, marking and labelling of packages or containers in which any live stock or live stock product shall be contained;
- (f) prescribing the manner in which the seller or shipper of ungraded live stock and live stock products shall identify, for purposes of grading, individual producer's lots in any shipment;
- (g) prescribing the manner in which a receiver shall make returns and prepare for presentation to the seller or shipper the statements of account of purchase of any live stock or live stock product and for the investigation of such statements and the transactions represented thereby;
- (h) prescribing the manner in which receipts, classifications, weights and purchase prices shall be recorded at assembling points and abattoirs and made available to the Minister;
- (i) prescribing the grades of eggs that may be broken or dried in any egg-breaking plant;
- (j) prescribing the manner in which stock yards shall be constructed, equipped, maintained and operated;
- (k) prescribing the manner in which complaints against the maintenance and operation of any stock yard shall be made and investigated;
- (l) prescribing the manner in which complaints against any live stock exchange or any member of a live stock exchange shall be made and investigated;
- (m) prescribing the manner in which business shall be conducted by members of a live stock exchange and be persons using a stock yard;

- (n) designating any premises a stock yard for the purposes of this Act;
- (o) regulating the production and sale of poultry and of eggs for the production of poultry;
- (p) classifying persons dealing in live stock or live stock products;
- (q) providing for the licensing by the Commissioner of any class or classes of persons dealing in any live stock or live stock product, prescribing the forms and terms of licences, the fees to be paid therefor and the conditions under which they shall be issued;
- (r) providing for the renewal, suspension and cancellation of such licences and the reinstatement of suspended or cancelled licences;
- (s) prescribing the manner in which any live stock or live stock product shall be detained by an inspector;
- (t) exempting from this Act or the regulations or any part thereof any person or group of persons;
- (u) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 219, s. 6 (1); 1967, c. 47, s. 1.

Regulation
may be
limited

(2) Any regulation may be limited as to time and place. R.S.O. 1960, c. 219, s. 6 (2).

Offence

7. Every person who contravenes any of the provisions of this Act or the regulations in guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$1,000 for any subsequent offence. R.S.O. 1960, c. 219, s. 7.

CHAPTER 252

The Live Stock Branding Act

1. In this Act,

Interpretation

- (a) "brand" means a letter, sign or numeral, or any combination of them, recorded as allotted;
- (b) "Department" means the Department of Agriculture and Food;
- (c) "live stock" means a horse, head of cattle, sheep or fowl;
- (d) "Minister" means the Minister of Agriculture and Food. R.S.O. 1960, c. 220, s. 1, *amended*.

2.—(1) No person shall brand any livestock except with a brand allotted by the Minister and to which he is entitled under this Act.

Branding of live stock

(2) Every such brand shall be recorded as in this Act provided and the fees payable are those set out in the Schedule.

Recording brand

(3) A brand so allotted is not good for a longer period than three years, unless it is renewed by the owner.

Renewal of brand

(4) Any owner of a brand is entitled to transfer the ownership of it to any person upon applying to the Minister and complying with the requirements laid down by the Minister to effect the transfer. R.S.O. 1960, c. 220, s. 2.

Transfer of brand

3.—(1) Upon the recording in the books of the Department of any allotment or transfer of a brand, the person in whose name the brand is last recorded becomes the owner of the brand and of all the rights thereof and therein, and is entitled to a certificate of the allotment or transfer and of the recorded entry of the brand, and the production of the certificate is *prima facie* evidence of the ownership of the certificate without any further proof of the signature of the officer or other person signing the certificate.

Certificate of transfer

(2) In case any owner under this Act forfeits his right to ownership of a brand, the brand shall not be allotted to any person for a period of at least three years. R.S.O. 1960, c. 220, s. 3.

Right to ownership

4. The Live Stock Commissioner shall be the recorder of brands and shall receive applications, keep a record of all brands allotted and make transfers and cancellations in accordance with this Act. R.S.O. 1960, c. 220, s. 4.

Record of all brands

List of
brands
may be
published

5. The Minister may cause to be published from time to time a complete list of the brands recorded under this Act. R.S.O. 1960, c. 220, s. 5.

Regulations

6. The Minister may make regulations prescribing forms and providing for their use and as are necessary for the better carrying out of the provisions of this Act. R.S.O. 1960, c. 220, s. 6.

Offences

7. Every person who,

- (a) improperly and wrongfully brands or causes to be branded any live stock with a brand that has been recorded as required by this Act or the regulations, and that has not been cancelled thereunder; or
- (b) brands or causes to be branded with his own brand any live stock of which he is not the owner without the authority of the owner; or
- (c) defaces, obliterates or otherwise renders illegible, or causes to be defaced, obliterated or otherwise rendered illegible any brand upon any live stock; or
- (d) brands or causes to be branded any live stock with an unrecorded brand,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 220, s. 7.

SCHEDULE

FEEES

On application for allotment of a brand for a period of 3 years	\$1.00
On application for renewal of an allotment of a brand for a further period of 3 years	1.00
On application for change in the record of a brand . . . . .	.50
On every transfer of a recorded brand . . . . .	.50
For every search of a brand record . . . . .	.50
For every certified extract from the brand recorded . . . . .	.50

R.S.O. 1960, c. 220, Sched.

CHAPTER 253

The Live Stock Community Sales Act

1. In this Act,

Interpre-
tation

- (a) "community sale" means a sale or offering for sale of live stock by public auction held at an established place of business where live stock is assembled for the purpose;
- (b) "Director" means the Director of the Veterinary Services Branch of the Department of Agriculture and Food;
- (c) "inspector" means an inspector appointed for the purposes of this Act;
- (d) "licence" means a licence under this Act;
- (e) "live stock" means cattle, goats, horses, sheep or swine, or the young thereof;
- (f) "operator" means a person engaged in the business of operating community sales;
- (g) "premises" means the land, buildings and structures at the place of business of an operator;
- (h) "regulations" means the regulations made under this Act;
- (i) "veterinarian" means a veterinarian appointed under this Act. R.S.O. 1960, c. 221, s. 1; 1965, c. 60, s. 1; 1967, c. 48, s. 1, *amended*.

2. This Act does not apply to,

Where Act
does not
apply

- (a) a sale at a stock yard operated by the Ontario Stock Yards Board;
- (b) a sale of live stock by a local board under *The Farm Products Marketing Act*; R.S.O. 1970, c. 162
- (c) a sale of pure bred live stock that is or is of a class that is designated by the regulations; or
- (d) a sale of cattle by a co-operative corporation to which Part V of *The Corporations Act* applies where, R.S.O. 1970, c. 89
 - (i) one of the objects of the corporation is to operate sales of cattle on a consignment basis,
 - (ii) at least three-quarters of the shareholders or members of the corporation are producers of cattle, and
 - (iii) the corporation operates not more than four sales in any calendar year. R.S.O. 1960, c. 221, s. 2; 1967, c. 48, s. 2.

Licence

3. No person shall engage in the business of operating community sales without a licence therefor from the Director. R.S.O. 1960, c. 221, s. 3; 1965, c. 60, s. 2.

Conditions
of licence

- 4.** Every licence is subject to the conditions that the operator,
- (a) maintains the security required by the regulations;
 - (b) is in possession of premises that have at least one building for the stabling of the live stock that is assembled for the purpose of sale; and
 - (c) complies with this Act and the regulations and any other condition that is imposed by the regulations. R.S.O. 1960, c. 221, s. 4.

Require-
ments for
premises

- 5.** No operator shall hold a community sale unless,
- (a) every building in which live stock is kept is subdivided into areas so that each class of live stock may be kept separately and so that the live stock that is designated for sale for purposes other than slaughter may be kept separate from the live stock that is designated for sale for slaughter;
 - (b) facilities for watering live stock are provided in each separate area in which live stock is kept;
 - (c) every floor of every building used for keeping live stock and every passageway over which live stock passes has a reasonable smooth and impermeable surface;
 - (d) every wall, partition, barrier, fence, manger, trough and other structure or part thereof with which live stock may come into contact is free from sharp projections and obstructions that may injure live stock;
 - (e) a room is provided in a convenient location for the use of a veterinarian as an office and as a laboratory equipped with such facilities as are required by him in the course of his duties under this Act and the regulations; and
 - (f) a set of scales with a weighing capacity of at least 3,000 pounds is installed and maintained in good operating condition. R.S.O. 1960, c. 221, s. 5.

Number of
live stock
on premises

6. No operator shall assemble live stock for a community sale in greater numbers than may be kept, fed, watered and otherwise cared for on the premises without overcrowding or risk of injury. R.S.O. 1960, c. 221, s. 6.

Appoint-
ment of vet-
erinarians

7. The Lieutenant Governor in Council may appoint such veterinarians as are required for the purposes of this Act. R.S.O. 1960, c. 221, s. 7.

- 8.** A community sale shall not be held until a veterinarian, Conditions precedent to sale
- (a) has inspected the premises at which the sale is to be held;
 - (b) has examined or inspected all live stock that is to be offered for sale; and
 - (c) has carried out such other duties as are prescribed in the regulations. R.S.O. 1960, c. 221, s. 8, *amended*.

9. Every operator shall, at least twelve hours before any live stock is received on his premises for the purpose of a community sale, clean and disinfect the premises in such manner as the regulations prescribe. R.S.O. 1960, c. 221, s. 9. Cleaning of premises before sale

10. Every operator shall keep for at least twelve months after each community sale a record of the sale showing, Records

- (a) the names and addresses of the sellers and buyers of the live stock;
- (b) the dates of arrival at and departure from his premises of the live stock;
- (c) an identification or description of the live stock;
- (d) the sale price of the live stock; and
- (e) where the live stock is sold by weight, the weight thereof. R.S.O. 1960, c. 221, s. 10.

11. The Minister of Agriculture and Food may appoint a chief inspector and one or more inspectors for the purposes of this Act. 1965, c. 60, s. 3. Inspectors

12.—(1) The Director or an inspector or a veterinarian may enter any premises for the purpose of enforcing this Act. R.S.O. 1960, c. 221, s. 11 (1); 1965, c. 60, s. 4 (1). Powers of entry

(2) No person shall obstruct the Director or an inspector or a veterinarian in the performance of his duties or refuse to permit the inspection of any live stock or furnish him with false information. R.S.O. 1960, c. 221, s. 11 (2); 1965, c. 60, s. 4 (2). Obstruction

(3) Every person shall, when required by the Director or an inspector, produce any books, records or other documents relating to any live stock assembled or sold at a community sale. R.S.O. 1960, c. 221, s. 11 (3); 1965, c. 60, s. 4 (3). Production of records

13. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$100 and for a second or subsequent offence to a fine of not more than \$500. R.S.O. 1960, c. 221, s. 12. Offence

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) establishing classes of community sales and limiting the application of any regulation to any such class;
 - (b) providing for the issue, renewal, refusal to grant or renew, suspension and revocation of licences;
 - (c) providing for a person whose licence is refused, suspended, revoked or not renewed to show cause why the licence should not be refused, suspended, revoked or should be renewed, as the case may be;
 - (d) designating sales or classes of sales of pure bred live stock for the purpose of clause *c* of section 2;
 - (e) prescribing additional conditions to those mentioned in section 4;
 - (f) prescribing the fee payable for a licence and for the renewal thereof;
 - (g) requiring the bonding of operators and prescribing the amount and form of such bonds, the classes of securities that are acceptable as collateral security, the period that bonds shall subsist, the condition upon which bonds may be forfeited, and respecting all matters subsequent to forfeiture;
 - (h) prescribing the duties of veterinarians and inspectors;
 - (i) respecting the times of delivery of live stock to premises and the hours for holding community sales;
 - (j) respecting the conditions under which live stock shall be assembled or offered for sale at community sales;
 - (k) prescribing the manner in which premises shall be cleaned and disinfected;
 - (l) designating diseases and providing for the disposal of live stock found infected with any such disease;
 - (m) prescribing forms and providing for their use;
 - (n) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1960, c. 221, s. 13; 1967, c. 48, s. 3.
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CHAPTER 254

The Loan and Trust Corporations Act**1. In this Act,**Interpre-
tation

- (a) "accountant" means a person who is a member of The Canadian Institute of Chartered Accountants or any other person who is an accountant and who, in either case, is acceptable to the Registrar as being competent to audit the accounts and transactions of corporations under this Act and includes a partnership of which the members are accountants;
- (b) "chief agency" means the principal office or place of business in Ontario of a corporation that has its head office out of Ontario;
- (c) "corporation" means a loan corporation or a trust company;
- (d) "due application" includes the furnishing of information, evidence and material required by the Registrar, and the payment of the prescribed fees in respect of any application, certificate or document required or issued under this Act, and also the payment to the Minister of Revenue of all taxes due and payable by the applicant company under any Act;
- (e) "extra provincial corporation" means a corporation that was not incorporated under the law of Ontario;
- (f) "head office" means the place where the chief executive officers of the corporation transact its business;
- (g) "law of Ontario" includes any law of the former Province of Canada or of Upper Canada, continued as the law of Ontario, or consolidated or incorporated with the law of Ontario;
- (h) "loan corporation" means an incorporated company, association or society, constituted, authorized or operated for the purpose of lending money on the security of real estate or investing money in mortgages, charges or hypothecs upon real estate or for those and any other purposes, but does not include a chartered bank, an insurance corporation, a trust company, or an investment company registered under *The Investment Contracts Act*.

- (i) "Minister" means the member of the Executive Council under whose direction this Act is administered;
- (j) "paid in", as applied to the capital stock of a corporation or to any of its shares, means the amount paid to it on its shares, not including the premium, if any, paid on such shares, whether such shares are or are not fully paid up;
- (k) "provincial corporation" means a corporation incorporated under the law of Ontario;
- (l) "provincial trust company" means a trust company that is a provincial corporation;
- (m) "real estate" includes messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal or incorporeal, and leasehold estates, and any undivided share thereof, and any estate, right or interest therein;
- (n) "registered corporation" means a corporation registered under this Act;
- (o) "Registrar" means the Registrar appointed under this Act;
- (p) "trust company" means a company constituted or operated for the purpose of acting as trustee, bailee, agent, executor, administrator, receiver, liquidator, assignee, guardian of a minor's estate, or committee of a mentally incompetent person's estate. R.S.O. 1960, c. 222, s. 1; 1967, c. 49, s. 1; 1970, c. 129, s. 1, *amended*.

Application **2.—(1)** This Act applies, according to its context, to every corporation within the meaning of this Act.

Idem (2) With respect to every provincial corporation, whether formed or incorporated before or after the passing of this Act and whether formed or incorporated by or under a special or general Act or by letters patent or otherwise, any provision of the Act or letters patent or other instrument of incorporation that is inconsistent or in conflict with the provisions of this Act does not apply. R.S.O. 1960, c. 222, s. 2 (1, 2).

Idem (3) Sections 3 to 65, except sections 24, 26, 30 and 46, apply only to provincial corporations. R.S.O. 1960, c. 222, s. 2 (3); 1966, c. 81, s. 1.

INCORPORATION OF LOAN CORPORATIONS AND TRUST COMPANIES

Application for incorporation **3.—(1)** An application for the incorporation of a loan corporation or a trust company shall be made by petition to the Lieutenant Governor in Council through the Minister in the prescribed form, and shall be delivered to the Registrar. R.S.O. 1960, c. 222, s. 3 (1); 1970, c. 129, s. 2.

(2) The applicants shall for one month next before filing their application with the Registrar publish a notice thereof in *The Ontario Gazette*, and shall also before such filing give a like notice at least once in a newspaper published in the locality in which the head office is to be established.

Notice of application

(3) The notice shall state the proposed corporate name, the location of the head office, which shall be in Ontario, the purposes of the corporation, and for what amount of permanent capital stock authorization will be asked, with the number of shares and the par value of the shares.

Contents

(4) The applicants shall furnish such further information as is required by the Minister or the Registrar.

Further information

(5) The application shall be accompanied by the original, or one of the duplicate originals, of a declaration adopted at a general meeting of the promoters, and executed under their respective hands and seals by at least twenty-five persons present at the meeting who are subscribers for shares.

Application to be accompanied by a declaration

(6) The declaration shall set out the names in full and the address and calling of each of the declarants and shall declare that the declarants assembled at on (naming the place and time); being chairman, and being secretary of the meeting (naming them) did there and then agree to constitute themselves a provisional corporation by the name of (mentioning the proposed corporate name) under *The Loan and Trust Corporations Act* and under the proposed by-laws there and then adopted, and annexed to the declaration, also that the five persons (naming them) were elected provisional directors.

Contents of declaration

(7) The Minister may refer the application or any question arising thereunder to the Registrar for a report, and the Registrar shall report thereon. R.S.O. 1960, c. 222, s. 3 (2-7).

Reference to Registrar

4.—(1) Three copies of the proposed by-laws shall accompany the declaration, one copy duly certified being annexed thereto. R.S.O. 1960, c. 222, s. 4 (1).

By-laws to accompany declaration

(2) Subject to this Act, the by-laws shall,

What they shall provide for

- (a) provide for the proposed corporate name, and the location of the head office of the corporation;
- (b) set out the purposes for which the corporation is to be constituted;
- (c) state the capital of the corporation, the classes, if any, into which it is to be divided, the number of shares of each class and the par value of each share, and where more than one class of shares is provided for, one class shall be common shares designated as such, and the

other class or classes shall be preference shares designated as such;

- (d) in the case of preference shares, provide for the preferences, rights, conditions, restrictions, limitations or prohibitions attaching thereto including, without limiting the nature thereof, the right of the corporation to purchase for cancellation or at its option to redeem all or part of the preference shares of any class, or provide for conditions, restrictions, limitations or prohibitions on the right to vote;
- (e) in the case of a loan corporation, define and regulate the exercise of such general powers of borrowing as are by this Act conferred upon loan corporations and declare within what limits such borrowing powers are to be exercised, and whether by issuing debentures or otherwise;
- (f) provide for the holding of general meetings of the shareholders;
- (g) provide for the election of directors, prescribe their number, powers, duties, and term of office, and the number necessary to constitute a quorum;
- (h) provide that security in amounts satisfactory to the board of directors is to be taken for the fidelity of the person or persons having custody or control of the funds of the corporation; and
- (i) provide for amendment of the by-laws by the shareholders in general meeting. R.S.O. 1960, c. 222, s 4 (2); 1970, c. 129, s. 3.

Stock subscription

5. A sworn copy of the stock subscription shall also be filed with the Registrar containing such particulars as he may require. R.S.O. 1960, c. 222, s. 5.

Minister may direct amendment of by-laws

6. If, on receiving an application for incorporation, the Minister finds in the by-laws anything repugnant to this Act or to the law of Ontario, he may direct an amendment of the by-laws, and, upon their being amended as directed and returned certified as having been so amended, the application may be proceeded with. R.S.O. 1960, c. 222, s. 6.

First by-laws of corporation

7. The by-laws accompanying the declaration mentioned in section 3, with such amendments as have been required by the Minister, are the first by-laws of the corporation and take effect on the date of the incorporation. R.S.O. 1960, c. 222, s. 7.

Affidavit as to subscription and payment

8.—(1) For the purpose of incorporation, the applicants shall file with the Registrar an affidavit showing that at least \$1,000,000 of stock has been subscribed for and taken up *bona fide*

by at least twenty-five responsible subscribers, that each of the applicants holds in his own name and for his own use shares of an aggregate par value of at least \$1,000 and has paid in cash all calls due thereon and all liabilities incurred by him to the corporation, that at least \$1,000,000 of such subscribed stock has been paid in cash by the subscribers into a branch in Ontario of a chartered bank, in trust for the proposed corporation, free from all liability on the part of the proposed corporation or any of the subscribers to make repayment of the same or any part thereof to any person, firm or corporation and that each subscriber has, out of his own money, contributed to the amount so paid in rateably according to the amount of shares subscribed for by him. 1966, c. 81, s. 2; 1968, c. 66, s. 1.

(2) Where the corporation is to be constituted for the purpose of acquiring the assets of one or more existing corporations and the proposed consideration for the transfer of the assets is to consist wholly or in part of shares of the capital stock of the new corporation, the Lieutenant Governor in Council may dispense with the requirements of subsection 1 as to subscription and payment to such extent as he considers proper. R.S.O. 1960, c. 222, s. 8 (2).

New corporation acquiring assets of existing corporation

9.—(1) No share shall be issued until it is fully paid and a share is not fully paid until all consideration therefor has been received by the corporation.

Fully paid shares

(2) No shares of any class shall be issued at a discount or upon any terms, agreement or understanding that the holder thereof is liable for any lesser amount than the par value thereof.

No issue of shares at discount

(3) No transfer of shares shall be made that has the effect of reducing the number of shareholders to less than twenty-five. 1970, c. 129, s. 4.

No transfer to reduce number of shareholders to less than 25

10.—(1) A grant of incorporation shall be by letters patent.

Letters patent

(2) The letters patent shall set forth the name under which, and the date at which, the corporation became incorporated, the location of the head office, the amount of stock authorized, and the business to be undertaken by the corporation, distinguishing between the classes of business mentioned in section 120. R.S.O. 1960, c. 222, s. 10.

Contents

11. Incorporation may be granted without limitation of time or for any limited term of years not less than ten. R.S.O. 1960, c. 222, s. 11.

Term

12.—(1) Where incorporation is granted for a limited term of years, the letters patent shall specify the first and the last day of the term.

Term to be specified if limited

Renewal of
terminating
charter

(2) Where incorporation has been granted for a limited term, application may, upon the like notice as is required by section 3, be made on or before the expiry of the term for the renewal or extension of the incorporation, and the incorporation may be renewed or extended by letters patent either without limitation of time or for a limited term. R.S.O. 1960, c. 222, s. 12.

Termination
of
corporate
powers
where
non-user

13.—(1) If a corporation does not go into actual *bona fide* operation and becomes registered under this Act within two years after incorporation or if it does not use its corporate powers for the purposes set forth in its letters patent, the Act or instrument of incorporation, or is not registered under this Act during a period of two consecutive years, its corporate powers, except so far as is necessary for winding up the corporation, shall thereupon cease and determine. 1970, c. 129, s. 5.

Onus of
proof of
user

(2) In any action or proceeding where such non-user is alleged, proof of user lies upon the corporation.

Rights of
creditors not
affected

(3) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture.

Charter
may be
revived

(4) The Lieutenant Governor in Council may upon application revive any charter so forfeited, upon compliance with such conditions and upon payment of such fees as the Lieutenant Governor in Council may designate. R.S.O. 1960, c. 222, s. 13.

Consent of
holders to
redemption

14. Unless preference shares, debentures or bonds are issued subject to redemption or conversion, they are not subject to redemption or conversion without the consent of the holders thereof. R.S.O. 1960, c. 222, s. 15.

First
directors of
the cor-
poration

15. Where incorporation is granted, the provisional directors named in the declaration of the applicants are the first directors of the corporation, and shall continue in office until their successors are duly elected. R.S.O. 1960, c. 222, s. 16.

When letters
patent of
trust or loan
company
may issue

16.—(1) Letters patent of incorporation of a trust or loan company may issue where it is shown to the satisfaction of the Lieutenant Governor in Council that, in the locality in which the head office of the proposed company is to be situate, there exists a public necessity for a trust or loan company or for an additional trust or loan company. R.S.O. 1960, c. 222, s. 17 (1); 1968, c. 66, s. 2 (1).

Satisfying
Lieutenant
Governor of
fitness of
applicants

(2) Such letters patent shall not issue unless the Lieutenant Governor in Council is satisfied that the fitness of the applicants to discharge the duties of a trust or loan company is such as to command the confidence of the public and that the public convenience and advantage will be promoted by granting to the company the powers applied for. R.S.O. 1960, c. 222, s. 17 (2); 1968, c. 66, s. 2 (2).

17.—(1) A loan corporation may apply by petition to the Lieutenant Governor in Council for an order authorizing the corporation to act generally as agent for the transaction of business, the collection of loans, rents, interest, dividends, mortgages and other securities for money, as a depository for the safekeeping of securities and personal property and to carry on the business of a mortgage or real estate broker.

Application
by loan
corporation
for power to
act as agent

(2) An application under subsection 1 shall be authorized by a resolution of the directors.

Application
authorized
by resolution

(3) Upon the making of an order under subsection 1, the Registrar shall amend the registration of the corporation kept under clause *a* of subsection 1 of section 120 and subsection 1 of section 135. 1970, c. 129, s. 7.

Amendment
of
registration

STATUTORY MEETINGS

18.—(1) Every corporation shall, within a period of not less than one month and not more than three months from the date at which the corporation is entitled to commence business, hold a general meeting of its shareholders called "the statutory meeting".

Statutory
meetings

(2) The directors shall, at least ten days before the day on which the meeting is to be held, forward to every shareholder of the corporation a report certified by not fewer than two directors of the corporation showing,

Report to
be sent to
share-
holders

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) the total amount of cash received by the corporation in respect of such shares, distinguished as aforesaid;
- (c) an abstract of the receipts and payments of the corporation on capital account to the date of the report, and an account or estimate of the preliminary expenses of the corporation;
- (d) the names, addresses and descriptions of the directors, auditors, if any, manager, if any, and secretary of the corporation; and
- (e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

Report to be
certified by
auditors

(3) The report, so far as it relates to the shares allotted by the corporation, and to the cash received in respect of such shares, and to the receipts and payments of the corporation on capital account, shall be certified as correct by the auditors, if any, of the corporation.

Report to be
filed with
Registrar

(4) The directors shall cause a copy of the certified report to be filed with the Registrar forthwith after sending it to the shareholders.

List of
share-
holders to be
produced at
meeting

(5) The directors shall cause a list showing the names and addresses of the shareholders, and the number of shares held by each of them, to be produced at the commencement of the meeting, and to remain open and accessible to any shareholder of the corporation during the continuance of the meeting.

Share-
holders may
discuss
business of
company at
meeting

(6) The shareholders present at the meeting are at liberty to discuss any matter relating to the formation of the corporation, or arising out of the report, whether previous notice has been given or not, but no resolution of which notice has not been duly given shall be passed.

Adjourn-
ments

(7) The meeting may adjourn from time to time, and at any such adjourned meeting any resolution of which notice has been duly given, either before or after the former meeting, may be passed, and an adjourned meeting has the same powers as the original meeting.

Application
to court
if default
made

(8) If default is made in filing the report or in holding the statutory meeting, then at the expiration of fourteen days after the last day on which the meeting ought to have been held any shareholder may petition the Supreme Court for the winding up of the corporation, and the court may either direct that the corporation be wound up or give directions for the report being filed or a meeting being held, or make such other order as is just, and may order that the costs of the petition be paid by the persons who, in the opinion of the court, are responsible for the default. R.S.O. 1960, c. 222, s. 19.

GENERAL MEETINGS OF SHAREHOLDERS

Annual
meeting

19.—(1) A corporation shall hold an annual meeting of shareholders at the head office of the corporation or elsewhere in Ontario at least once in each year for the purposes of considering the financial statement of the corporation required to be laid before the meeting by section 75, the election of directors, the appointment of auditors and the transaction of such other business as is permitted or required by law or by the by-laws of the corporation.

Notice

(2) Notice of the time and place of the annual meeting shall be given to each person who on the record date for notice appears on

the records of the corporation as a shareholder by delivering or sending the notice by mail to his latest address as shown on the records of the corporation at least ten days before the date of the meeting. 1970, c. 129, s. 8, *part*.

20.—(1) The directors of a corporation may at any time by resolution call a general meeting of the shareholders for the transaction of any business specified in the resolution. General meetings

(2) Shareholders holding not less than 10 per cent of the issued shares of a corporation carrying the right to vote at the meeting may request the directors to call a general meeting of the shareholders for any purpose that is connected with the affairs of the corporation and that is not inconsistent with this Act. Requisition by shareholders

(3) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation, and may consist of several documents in like form signed by one or more requisitionists. Form of requisition

(4) Upon deposit of the requisition, the directors shall call forthwith a general meeting of the shareholders for the transaction of the business stated in the requisition. Directors to call general meeting

(5) Notice of any general meeting of the shareholders shall be given in the manner provided in subsection 2 of section 19. Notice

(6) No business other than that specified in the notice thereof shall be transacted at a general meeting unless all the shareholders are present in person or are represented by proxy and unanimously consent thereto. 1970, c. 129, s. 8, *part*. Other business

21. Every director or officer of a corporation wilfully neglecting or omitting to give or cause to be given the notice for any general meeting required by section 20 is guilty of an offence. 1970, c. 129, s. 8, *part*. Offence

22.—(1) The by-laws may provide for the fixing in advance of a date as the record date, Record dates

(a) for the determination of the shareholders entitled to notice of meetings of the shareholders, which record date for notice shall not be more than fifty days before the date of the meeting and not fewer than the minimum number of days for notice of the meeting and where no such record date for notice is fixed by by-law, the record date for notice shall be at the close of business on the day next preceding the day on which notice is given or sent; and

(b) for the determination of the shareholders entitled to vote at meetings of the shareholders, which record date

for voting shall be not more than forty-eight hours, excluding Saturdays and holidays, before the date of the meeting and, where no such record date for voting is fixed by by-law, the record date for voting shall be at the time of the taking of the vote. 1970, c. 129, s. 8, *part*.

Voting
rights

23. The holder of each common share and, subject to clause *d* of subsection 2 of section 4, the holder of each preference share who on the record date for voting appears on the records of the corporation as a shareholder is entitled to one vote for each share held by him, upon which he is not in arrear in respect of any call, at all meetings of shareholders of the corporation. 1970, c. 129, s. 8, *part*.

Proxy
requirements
R.S.O. 1970,
c. 89

24. Sections 84 to 91 of *The Corporations Act*, as amended or re-enacted from time to time, apply *mutatis mutandis* to registered corporations as if the provisions thereof were enacted in and form part of this Act. 1966, c. 81, s. 3.

Minute
book

25. The transactions of all general meetings of the corporation and of all meetings of the board of directors shall be entered in a book known as the "minute book" of the corporation. R.S.O. 1960, c. 222, s. 25; 1970, c. 129, s. 9.

INSIDER TRADING

Insider
trading
requirements

26. Sections 73 to 79 of *The Corporations Act*, as amended or re-enacted from time to time, apply *mutatis mutandis* to registered corporations as if the provisions thereof were enacted in and form part of this Act. 1966, c. 81, s. 4.

BY-LAWS

Share-
holders
may make
by-laws

27. A meeting of the shareholders, called with due notice thereof, may make such lawful and proper by-laws for the government of the corporation, not repugnant to this Act or any other law in force in Ontario, as the majority of the shareholders present in person or by proxy consider proper. R.S.O. 1960, c. 222, s. 26.

To be sealed

28. Every by-law shall be reduced to writing and shall have affixed thereto the seal of the corporation, and is receivable in evidence without proof of the seal or of the signature or of the official character of the person or persons appearing to have signed it, and without further proof thereof. R.S.O. 1960, c. 222, s. 27.

By-laws
to be
recorded

29.—(1) The by-laws shall be forthwith recorded in a book to be kept by the corporation known as the "by-law book".

(2) The by-law book shall, without the payment of any fee or charge, be open during business hours for inspection by any shareholder, depositor, debenture holder or holder of a guaranteed investment certificate, by himself or his agent, and any such person may make extracts therefrom. R.S.O. 1960, c. 222, s. 28.

Right to inspect by-law book

30. Every corporation shall deliver to the Registrar within one month after the passing thereof a certified copy of its by-laws and of every repeal, or addition thereto, or amendment or consolidation thereof. R.S.O. 1960, c. 222, s. 29, *amended*.

Copy of by-laws, etc., to be filed with Registrar

31.—(1) The shareholders in meeting may by by-law, of which, as proposed, notice shall be given to each shareholder with the notice of the meeting, empower the directors to make, amend and repeal by-laws for the corporation.

Delegating to directors power to make or amend by-laws

(2) Every such by-law of the directors and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the corporation duly called for that purpose, has force only until the next annual meeting of the corporation, and in default of confirmation thereat, at and from that time, ceases to have force, and in that case no new by-law to the same or the like effect or re-enactment thereof has any force until confirmed at a general meeting.

Confirmation necessary

(3) The corporation may at a general meeting duly called for the purpose or at an annual meeting repeal, amend, vary or otherwise deal with any by-law passed by the directors, but no act done or right acquired under any by-law is prejudicially affected by any such repeal, amendment, variation, or other dealing. R.S.O. 1960, c. 222, s. 30.

By-laws may be varied

32. The shareholders at a general meeting may alter or amend such by-laws and may confirm them as so altered and amended. R.S.O. 1960, c. 222, s. 31.

Alteration at general meeting

33. The directors of a corporation, authorized as provided by section 31, may make by-laws, not repugnant to this Act or any other law in force in Ontario, to regulate,

By-laws for particular purposes

- (a) the allotment and issue of shares, the making of calls thereon, the payment thereof, the issue and registration of certificates of shares, the forfeiture of shares for non-payment, the disposal of forfeited shares and of the proceeds thereof, the transfer of shares, and, subject to section 65, the subdivision of existing shares into shares of smaller amount;
- (b) the declaration and payment of dividends;

- (c) subject to section 72, the appointment, functions, duties and removal of agents, officers and servants of the corporation, and their remuneration;
- (d) the calling of meetings of the directors and the procedure at such meetings; and
- (e) the conduct in all other particulars of the affairs of the corporation. R.S.O. 1960, c. 222, s. 32.

DIRECTORS

Term of
office

34.—(1) The term of office of the directors of a corporation shall not exceed two years.

Number

(2) Where the term of office is one year only, the number of directors shall not be fewer than five.

Idem

(3) Where the term of office is two years, the number of directors shall be an even number not fewer than six, and one-half of the directors shall retire annually at the general meeting in rotation, but, if otherwise qualified, are eligible for re-election.

Retirement
by lot

(4) Where the term of office is two years, the first elected directors shall at their first meeting determine by lot which of them shall retire at the end of the first year. R.S.O. 1960, c. 222, s. 33, *amended*.

Ballot

35.—(1) The election of directors shall be by ballot. R.S.O. 1960, c. 222, s. 34 (1).

Qualifica-
tions of
directors

(2) No person is qualified to be a director unless he is of the full age of twenty-one years and is a shareholder holding, in his own right, shares of the corporation, on which at least \$500 has been paid in, and is not in arrear in respect of any call thereon. R.S.O. 1960, c. 222, s. 34, (2); 1961-62, c. 74, s. 1.

Retirement
age

(3) On and after the 1st day of January, 1972, no person is qualified for appointment or election as a director if he has attained the age of seventy-five years.

Majority
to be
Canadian
citizens and
residents

(4) The majority of the directors shall at all times be Canadian citizens ordinarily resident in Canada.

New election
to fill
director-
ships in
such case

(5) Where more than the permitted number of non-residents and aliens are elected, a new election shall be held forthwith to fill all the directorships to which non-residents or aliens have been elected, and so on until the number of non-residents and aliens elected is reduced to or below the permitted number. 1970, c. 129, s. 10.

Remunera-
tion

(6) The remuneration of directors shall be fixed by the shareholders in general meeting. R.S.O. 1960, c. 222, s. 34 (5).

36. If at any time an election of directors is not held or does not take effect at the proper time, the corporation is not thereby dissolved, but the election may take place at any general meeting of the corporation duly called for that purpose, and the retiring directors shall continue in office until their successors are elected. R.S.O. 1960, c. 222, s. 35.

Provision
in case of
failure of
election

37. Vacancies occurring in the board of directors may be filled for the unexpired remainder of the term by the board from among the qualified shareholders of the corporation. R.S.O. 1960, c. 222, s. 36.

Interim
vacancies

38. The directors may lawfully exercise all the powers of the corporation except as to such matters as are directed by law or by the by-laws of the corporation to be transacted at a general meeting and have not been delegated to the directors by a general meeting as provided by section 31. R.S.O. 1960, c. 222, s. 37.

Powers of
directors

39.—(1) The directors shall from time to time elect from among themselves a president and one or more vice-presidents, and the directors shall in all things delegated to them act for and in the name of the corporation, and, subject to subsection 2, the concurrence of a majority of the directors present at any meeting is at all times necessary to any act of the board.

President
and vice-
president

(2) Each director has one vote on any question before the board and, in the event of an equality of votes, the president or presiding officer has a second or casting vote. R.S.O. 1960, c. 222, s. 38.

Casting
vote

40.—(1) The shareholders of a corporation that has more than six directors may, at a general meeting called for the purpose, by resolution of two-thirds of the shareholders present in person or by proxy, authorize the directors to delegate any of their powers to an executive committee consisting of not fewer than three to be elected by the directors from their number.

Executive
committee

(2) A committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed upon them by such resolution or by the directors.

Committee's
powers

(3) Where directors delegate any of their powers to an executive committee, the powers so delegated shall be stated in writing and entered in the minute book of the corporation. R.S.O. 1960, c. 222, s. 39, *amended*.

Delegated
powers to
be recorded
in minute
book

41. Subject to this Act and to the Act or instrument constituting the corporation and to the by-laws of the corporation, the directors may,

General
powers of
directors

- (a) use or cause to be used and affixed the seal of the corporation, and may affix or cause it to be affixed to

any document or paper that in their judgment requires it;

- (b) make and enforce calls upon the shares of the respective shareholders;
- (c) declare the forfeiture of all shares on which calls are not paid;
- (d) make any payments and advances of money they consider expedient that are authorized to be made by or on behalf of the corporation, and enter into all contracts for the execution of the purposes of the corporation, and for all other matters necessary to the transaction of its affairs;
- (e) generally deal with, sell, exchange, lease and dispose of the lands, property and effects of the corporation in such manner as they consider expedient and conducive to the benefit of the corporation;
- (f) do and authorize, assent to or adopt all acts required for the due exercise of any further powers and authorities conferred by the Legislature. R.S.O. 1960, c. 222, s. 40.

Where directors have reasonable doubts as to legality of claim

42.—(1) Where the directors entertain reasonable doubts as to the legality of any claim to or upon any share, bond, debenture or obligation of the corporation, or to or upon any dividend, coupon or the proceeds thereof, they may apply to the Supreme Court, stating such doubt, for an order or judgment adjudicating upon such claim, and awarding such share, bond, debenture, obligation, dividend, coupon or proceeds to the person legally entitled to the same, and the court may restrain any action or proceeding against the corporation, or the directors or officers thereof, for the same subject-matter, pending the determination of the application.

Order of court to be indemnity to company

(2) If the order or judgment of the court is obeyed, the corporation and the directors and officers are fully protected and indemnified against all actions, claims and demands in respect of the matters in question in such application and the proceedings thereupon. R.S.O. 1960, c. 222, s. 41.

Manager and managing director

43. The secretary or treasurer or secretary-treasurer or other officer of the corporation may be styled "Manager", and, when the officer is also a director, he may be styled "Managing Director". R.S.O. 1960, c. 222, s. 42.

Certain persons in service of corporation to furnish security

44. Every officer or other person appointed to any office in anywise concerning the receipt, safe keeping or proper application of money shall furnish security according to the by-laws of the corporation and to the satisfaction of the directors for the just and faithful execution of the duties of his office, and any person entrusted with the performance of any other service may be

required by the directors to furnish similar security. R.S.O. 1960, c. 222, s. 43.

45. The directors shall not declare or pay any dividend or bonus when the corporation is insolvent, or that renders the corporation insolvent or diminishes its capital; and if any director, present when any such dividend or bonus is declared, forthwith, or if any director then absent, within twenty-four hours after he becomes aware thereof and is able to do so, enters his written protest against the same, and within eight days thereafter notifies the Registrar in writing of his protest, the director may thereby, but not otherwise, exonerate himself from liability. R.S.O. 1960, c. 222, s. 44.

Liability of directors declaring a dividend when corporation is insolvent etc.

46.—(1) The directors of any corporation are jointly and severally liable to its labourers, servants and apprentices for all debts not exceeding one year's wages due for services performed for the corporation while they are such directors.

Liability of directors for wages

(2) A director is not liable under subsection 1 unless,

Where no liability

(a) the corporation has been sued for the debt within one year after it has become due and execution has been returned unsatisfied in whole or in part; or

(b) the corporation has, within that period, gone into liquidation or has been ordered to be wound up and the claim for such debt has been duly filed and proved,

and unless he is sued for such debt while a director or within one year after he has ceased to be a director.

(3) If execution has so issued, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

Liability for amount unsatisfied on execution

(4) If the claim for such debt has been proved in liquidation or winding-up proceedings, a director, upon payment of the debt, is entitled to any preference that the creditor paid would have been entitled to, and, where a judgment has been recovered, he is entitled to an assignment of the judgment. R.S.O. 1960, c. 222, s. 45.

On payment, director entitled to assignment of judgment, etc.

SHARES, CALLS ON CAPITAL STOCK

47.—(1) The directors may call in and demand from the shareholders the amount unpaid on shares by them subscribed or held at such times and places and in such payments or instalments as the special Act, letters patent, supplementary letters patent or this Act or the by-laws of the corporation require or allow, and interest accrues upon the amount of any unpaid call from the day appointed for payment thereof.

Calling in instalments

(2) The demand shall state that in the event of non-payment the shares in respect of which the call was made will be liable to be forfeited.

Demand to state liability to forfeiture

Forfeiture
of shares

(3) If after the demand any call is not paid in accordance therewith, the directors, by resolution duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made, and they thereupon become the property of the corporation and may be disposed of as, by by-law or otherwise, the corporation may determine, but such forfeiture does not relieve the shareholder of any liability to the corporation or to any creditor. R.S.O. 1960, c. 222, s. 46.

Liability
of share-
holders

48. Every shareholder, until the whole amount of his shares has been paid up, is individually liable to the creditors of the corporation for an amount equal to that not paid up thereon, but is not liable to an action therefor by any creditor before an execution against the corporation has been returned unsatisfied in whole or in part, and the amount due on the execution, but not beyond the amount so unpaid on such shares, is the amount recoverable, with costs, against the shareholder. R.S.O. 1960, c. 222, s. 47.

Set-off

49. In any action under section 48, a shareholder may plead by way of defence, in whole or in part, any set-off that he could set up against the corporation, except a claim for unpaid dividend, or a salary or allowance as a president or a director of the corporation. R.S.O. 1960, c. 222, s. 48.

Par value
of shares

50. The par value of a share of capital shall be \$1 or any multiple thereof not exceeding \$100. 1961-62, c. 74, s. 2; 1970, c. 129, s. 11.

Representa-
tives,
guardians
or trustees
not to be
personally
liable

51.—(1) No person holding shares in the corporation as executor, administrator, guardian, committee of a mentally incompetent person, or trustee of or for any estate, trust or person named in the books of the corporation as being so represented by him, is personally subject to any liability as a shareholder, but the estate and funds in his hands are liable in like manner and to the same extent as the testator, intestate, ward or person interested in such trust fund would be if living and competent to hold the shares in his own name.

Liability of
beneficiary

(2) If the trust is for a living person, not under disability, such person also is liable as a shareholder.

Where
beneficiary,
etc., not
named,
trustee, etc.,
liable

(3) If such testator, intestate, ward, mentally incompetent person or person so represented is not named in the books of the corporation, the executor, administrator, guardian, committee or trustee is personally liable in respect of such shares as if he held them in his own name as owner thereof. R.S.O. 1960, c. 222, s. 50.

52.—(1) Except with the consent of the directors, no payment on account of capital stock shall be made in advance of calls thereon. Payments on shares in advance of calls

(2) In respect of any sum so paid, a shareholder is entitled to participate in any dividend declared, but it shall not bear interest and does not constitute a loan to or a debt of the corporation. Right to participate in dividends

(3) The shareholder is entitled to have any such advance payment credited to him *pro tanto* as against subsequent calls. R.S.O. 1960, c. 222, s. 51. To be credited as against subsequent calls

53. Subject to sections 57 and 60, no by-law shall be passed that in any way restricts the right of a holder of paid up shares to transfer them, but nothing in this section prevents the regulation of the mode of their transfer. R.S.O. 1960, c. 222, s. 52; 1970, c. 84, s. 1. Restrictions on transfer

54.—(1) In this section and sections 55 to 59,

Interpretation

(a) “company” includes an association, partnership or other organization;

(b) “non-resident” means,

(i) an individual who is not ordinarily resident in Canada,

(ii) a company incorporated, formed or otherwise organized elsewhere than in Canada,

(iii) a company that is controlled directly or indirectly by non-residents as defined in subclause i or ii,

(iv) a trust established by a non-resident as defined in subclause i, ii or iii, or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest, or

(v) a company that is controlled directly or indirectly by a trust mentioned in subclause iv;

(c) “resident” means an individual, company or trust that is not a non-resident.

(2) For the purposes of sections 55 to 59, a shareholder shall be deemed to be associated with another shareholder if, Associated shareholder

(a) one shareholder is a company of which the other shareholder is an officer or director;

(b) one shareholder is a partnership of which the other shareholder is a partner;

(c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;

(d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual

or company that controls directly or indirectly the other shareholder;

- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

Shares
held jointly

(3) For the purposes of sections 55 to 59, where a share of the capital stock of a corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident. 1970, c. 84, s. 2, *part*.

Limit on
shares held
by non-
residents

55.—(1) The directors of a corporation shall refuse to allow in the books referred to in section 66 the entry of a transfer of any share of the capital stock of the corporation to a non-resident,

- (a) if, when the total number of shares of the capital stock of the corporation held by non-residents exceeds 25 per cent of the total number of issued and outstanding shares of such stock, the entry of the transfer would increase the percentage of such shares held by non-residents;
- (b) if, when the total number of shares of the capital stock of the corporation held by non-residents is 25 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the total number of such shares of stock held by non-residents to exceed 25 per cent of the total number of issued and outstanding shares of such stock;
- (c) if, when the total number of shares of the capital stock of the corporation held by the non-resident and by other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding shares of such stock, the entry of the transfer would increase the percentage of such shares held by the non-resident and by other shareholders associated with him, if any; or
- (d) if, when the total number of shares of the capital stock of the corporation held by the non-resident and by other shareholders associated with him, if any, is 10 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the number of such shares of stock held by the non-resident and by other shareholders associated with him, if any, to exceed 10 per cent of the issued and outstanding shares of such stock.

Exception

(2) Notwithstanding subsection 1, the directors of a corporation may allow in the books referred to in section 66 the entry of a

transfer of any share of the capital stock of the corporation to a non-resident when it is shown to the directors on evidence satisfactory to them that the share was, immediately prior to the 17th day of June, 1970, held in the right of or for the use or benefit of the non-resident.

(3) The directors of a corporation shall not allot, or allow the allotment of, any shares of the capital stock of the corporation to any non-resident in circumstances where, if the allotment to such non-resident were a transfer of those shares, the entry thereof in the books would be required, under subsection 1, to be refused by the directors.

(4) Default in complying with this section does not affect the validity of a transfer or allotment of a share of the capital stock of the corporation that has been entered in the books referred to in section 66, but every director or officer who knowingly authorizes or permits such default is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment. 1970, c. 84, s. 2, *part, amended*.

56.—(1) A non-resident shall not exercise the voting rights attached to shares of a corporation unless he is entered in the books of the corporation as a shareholder in respect of the shares.

(2) Where a resident holds shares of the capital stock of a corporation in the right of, or for the use or benefit of, a non-resident and in respect of which the non-resident is not entered in the books of the corporation as the holder, the resident shall not, either in person or by proxy or by a voting trust, exercise the voting rights pertaining to those shares.

(3) Where a person or company who is a resident becomes a non-resident while entered on the books of a corporation as a shareholder and the number of shares of such person or company recorded in such books when added to those entered therein as owned by other non-residents exceed the limit set out in section 55, the person or company shall not exercise, directly, by proxy or by a voting trust, any voting rights in respect of its shares that exceed the limit set out in section 55.

(4) Notwithstanding subsections 1, 2 and 3, where any shares of the capital stock of a corporation are held in the name of or for the use or benefit of a non-resident, other than shares in respect of which the non-resident was entered in the books of the corporation before the 17th day of June, 1970 or is entered in the books under subsection 2 of section 55, no person shall, either as proxy or by a voting trust or in person, exercise the voting rights pertaining to such shares held by the non-resident or in his right or for his use or benefit, if the total of such shares so held, together with such shares held in the name or right of or for the use or benefit of,

- (a) any shareholders associated with the non-resident; or
- (b) any persons who would, under subsection 2 of section 54, be deemed to be shareholders associated with the non-resident were such persons and the non-resident themselves shareholders,

exceed in number 10 per cent of the issued and outstanding shares of such stock.

Penalty

(5) Every person who knowingly contravenes this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment.

Effect of
contra-
vention

(6) If any provision of this section is contravened at a general meeting of the corporation, no proceeding, matter or thing at that meeting is void by reason only of such contravention, but any such proceeding, matter or thing is, at any time within one year from the day of commencement of the general meeting at which the contravention occurred, voidable at the option of the shareholders by a resolution passed at a special general meeting of the corporation. 1970, c. 84, s. 2, *part, amended*.

By-laws

57.—(1) The directors of a corporation may make such by-laws as they consider necessary to carry out the intent of sections 54 to 56 and in particular, but without restricting the generality of the foregoing, the directors may make by-laws,

- (a) requiring any person holding any share of the capital stock of the corporation to submit statutory declarations,
 - (i) with respect to the ownership of such share,
 - (ii) with respect to the place in which the shareholder and any person for whose use or benefit the share is held are ordinarily resident,
 - (iii) as to whether the shareholder is associated with any other shareholder, and
 - (iv) with respect to such other matters as the directors consider relevant for the purposes of sections 54 to 56;
- (b) prescribing the times at which and the manner in which any declarations required under clause *a* are to be submitted; and
- (c) requiring any person desiring to have a transfer of a share to him entered in the books referred to in section 66 to submit such a declaration as may be required under this section in the case of a shareholder.

Where
declaration
pending

(2) Where by or under any by-law made under subsection 1 any declaration is required to be submitted by any shareholder or

person in respect of the transfer of any share, the directors may refuse to enter such transfer in the books referred to in section 66 until the required declaration has been completed and submitted.

(3) Any person who makes any wilfully false or deceptive statement in a declaration required by a by-law made under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment. 1970, c. 84, s. 2, *part*.

Penalty

58. No transfer of shares of a corporation shall be entered in the books maintained under section 66 until thirty days after notice thereof has been deposited with the Registrar, if,

Report to the Registrar

- (a) the transfer relates to 10 per cent or more of the issued shares of the corporation for the time being enjoying voting rights; or
- (b) the directors have reason to believe that the transfer would result in a majority of the issued shares of the corporation for the time being enjoying voting rights being beneficially owned by any one person. 1970, c. 84, s. 2, *part*.

59. In determining, for the purposes of sections 54 to 58, whether a person is a resident or non-resident, by whom a corporation is controlled or any other circumstances relevant to the performance of their duties under those sections, the directors of the corporation may rely upon any statement made in any declarations made under section 57 or rely upon their own knowledge of the circumstances; and the directors are not liable in any action for anything done or omitted by them in good faith as a result of any conclusions made by them on the basis of any such statements or knowledge. 1970, c. 84, s. 2, *part*.

Liability of directors

60.—(1) No transfer of shares, the whole amount whereof has not been paid, shall be made without the consent of the directors.

When directors' consent required

(2) Where any such transfer is made with the consent of the directors to a person who is not apparently of sufficient means to fully pay up such shares, the directors are, subject to subsection 3, jointly and severally liable to the creditors of the corporation in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been.

Directors' liability

(3) If any director present when such a transfer is allowed forthwith, or, if any director then absent, within twenty-four hours after he becomes aware of such transfer and is able to do so, enters his written protest against the transfer, and within eight days thereafter notifies the Registrar in writing of his protest, the

Relief from liability by entering protest

director may thereby, but not otherwise, exonerate himself from liability.

Liability
where call
remains
unpaid

(4) Where a share upon which a call is unpaid is transferred with the consent of the directors, the transferee is liable for the call to the same extent and with the same liability to forfeiture of the share if the call remains unpaid as if he had been the holder when the call was made, and the transferor remains liable also for the call until it has been paid.

Where
transferor
indebted

(5) Where the letters patent, supplementary letters patent or by-laws of a corporation confer the power on the directors, they may decline to register a transfer of shares belonging to a shareholder who is indebted to the corporation. R.S.O. 1960, c. 222, s. 53.

Lost
certificate

61. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding 25 cents, and on such terms, if any, as to evidence and indemnity as the directors think fit. R.S.O. 1960, c. 222, s. 54.

Transfer
valid only
after entry

62. No transfer of shares, unless made by sale under execution or under the order or judgment of a competent court, is, until entry thereof has been duly made, valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and, if absolute, as rendering the transferee and the transferor jointly and severally liable to the corporation and its creditors until entry thereof has been duly made in the books of the corporation. R.S.O. 1960, c. 222, s. 55.

Transferor
may be
notified

63.—(1) The directors may, for the purpose of notifying the person registered therein as owner of such shares, refuse to allow the entry in any such books of a transfer of shares, and in that event shall forthwith give notice to the owner of the application for the entry of the transfer.

Owner may
lodge
caveat

(2) The owner may lodge a caveat against the entry of the transfer and thereupon the transfer shall not be made for a period of forty-eight hours.

Transfer
may be
entered if
no order
served

(3) If no order of a competent court enjoining the entry of the transfer is served upon the corporation within one week from the giving of the notice or the expiration of the period of forty-eight hours, whichever last expires, the transfer may be entered.

Corporation
not liable
if section
complied
with

(4) Where a transfer is entered after the proceedings mentioned in this section, the corporation is, in respect of the shares so transferred, free from liability to a person whose rights are purported to be transferred, but without prejudice to any claim that the transferor may have against the transferee. R.S.O. 1960, c. 222, s. 56.

64.—(1) Subject to *The Succession Duty Act*, where,

- (a) a transmission of shares or other securities of a corporation takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy; and
- (b) the probate of the will or letters of administration or document testamentary, or other judicial or official instrument under which the title, whether beneficial or as trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by a court or authority in Canada, or in the Commonwealth, or in any foreign country,

Deposit of foreign probate, letters of administration, etc., with officer of corporation
R.S.O. 1970, c. 449

the probate of the will or the letters of administration or the document testamentary or, in the case of a transmission by notarial will in the Province of Quebec, a copy thereof duly certified in accordance with the laws of Quebec, or the other judicial or official instrument, or an authenticated copy thereof or official extract therefrom under the seal of the court or other authority, without any proof of the authenticity of the seal or other proof whatever, shall be produced, and a true copy thereof, together with a declaration in writing showing the nature of the transmission, signed and executed by such one or more of the persons claiming by virtue thereof as the corporation requires, or, if any such person is a company, signed and executed by an officer thereof, shall be deposited with an officer of the corporation or other person authorized by the directors of the corporation to receive them.

(2) Such production and deposit is sufficient justification and authority to the directors for paying the amount or value of any dividend, coupon, bond, debenture, deposit, guaranteed investment certificate, obligation or share, or transferring, or consenting to the transfer of any bond, debenture, deposit, guaranteed investment certificate, obligation or share, in pursuance of, and in conformity to such probate, letters of administration or other such document aforesaid, but the payment, transfer or consent to transfer, shall not be made until *The Succession Duty Act* has been complied with. R.S.O. 1960, c. 222, s. 57.

Transmission of interest on death

INCREASE OR DECREASE OF CAPITAL STOCK
AND SUBDIVISION OF SHARES

65.—(1) The directors of a corporation may by by-law provide for the increase or decrease of its capital.

Increase or decrease of capital

(2) The by-law shall state the number, class and par value of the shares by which the capital is so increased or decreased.

Contents of by-law

(3) The directors may by by-law provide upon terms therein stated for the conversion of partly paid up shares into paid up shares or for subdividing shares or altering the par value of shares.

Conversion of partly paid up shares

Rights of
creditors
preserved

(4) The liability of shareholders to persons who, at the time the capital is increased or decreased or shares are converted or altered, are creditors of the corporation remains as though the capital had not been increased or decreased or the shares had not been converted or altered.

Copy to
Registrar

(5) Where a by-law under this section would have the effect of increasing or decreasing the capital of a corporation or altering the liability of any shareholder thereof, a copy of the proposed by-law shall be delivered to the Registrar and no such by-law shall be passed for at least one month thereafter.

Confirmation
of by-law by
shareholders
and by order
in council

(6) No by-law under this section has any force or effect until it has been submitted to a general meeting of the shareholders of the corporation duly called for that purpose at which the holders of at least 50 per cent of the issued shares of the corporation for the time being carrying voting rights are present in person or represented by proxy and is confirmed thereat, with or without variation, by a resolution passed by the affirmative votes of the holders of at least two-thirds of the shares represented at the meeting, and has thereafter been confirmed by order of the Lieutenant Governor in Council.

Notice to
shareholders

(7) Notice of such general meeting of the shareholders shall be given as provided in subsection 2 of section 19 and such additional notice as the Registrar may direct.

When con-
firmation
may be
granted

(8) The Lieutenant Governor in Council may grant his confirmation, required by subsection 6, if he is satisfied of the *bona fide* character of the changes provided for in the by-law, unless it appears that the confirmation of the by-law would not be in the public interest.

Varying
by-law on
confirma-
tion

(9) With the consent of the corporation, evidenced by a resolution of the directors, the changes provided for in any by-law under this section may be varied or amended by the confirming order in council, and may be made subject to such conditions as the Lieutenant Governor in Council considers proper.

Evidence
of con-
firmation

(10) A copy of the order in council confirming a by-law under this section, certified by the Clerk of the Executive Council, shall be received in evidence as *prima facie* proof of the confirmation.

Effective
date of
by-law

(11) A by-law under this section becomes effective on the date specified in the confirming order in council. 1970, c. 129, s. 12.

BOOKS

Record
books to
be kept, and
contents
thereof

66.—(1) Every corporation having its head office in Ontario shall cause the secretary, or some other officer specially charged with the duty, to keep a book or books wherein shall be kept recorded,

- (a) a copy of the letters patent and of any supplementary letters patent issued to the corporation and, if incorporated by special Act, a copy of such Act, and the by-laws of the corporation duly authenticated;
- (b) the names, post office addresses, so far as known, of all persons who are or have been directors of the corporation, with the date on which each became and ceased to be a director;
- (c) the names, alphabetically arranged, of all persons who are shareholders of the corporation;
- (d) the post office address, so far as known, of every such person while he is a shareholder;
- (e) the number of shares held by each shareholder;
- (f) the amounts paid in, and remaining unpaid, on the shares of each shareholder; and
- (g) the date and other particulars of all transfers of shares in the order in which they were made.

(2) Such books shall be kept at the head office of the corporation. Books to be kept at head office

(3) Every director, officer or employee of a corporation who removes or assists in removing such books from Ontario or who otherwise contravenes the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of \$200. Offence

(4) Upon necessity therefor being shown and adequate assurance given that such books may be inspected in Ontario by any person entitled thereto after application for such inspection to the Registrar, the Lieutenant Governor in Council may relieve any corporation from the provisions of subsection 2 upon such terms as he sees fit. Relief from operation of section

(5) Such books shall, without the payment of any fee or charge, be open during business hours for inspection by any shareholder, depositor, debenture holder or holder of a guaranteed investment certificate, by himself, his agent or his personal representative, and any such person may make extracts therefrom. Books to be open for inspection

(6) Every such corporation that neglects to keep such book or books is liable to forfeit its registry under this Act, and, if a provincial corporation, is also liable to forfeit its corporate franchise and rights. Forfeiture for neglect

(7) No auditor, director, officer or servant of the corporation shall knowingly make or assist in making any untrue entry in any such book, or shall refuse or neglect to make any proper entry therein. False entries

Liability for damages

(8) Every person contravening this section is liable in damages for all loss or injury that any person interested may have sustained thereby. R.S.O. 1960, c. 222, s. 59.

Register of securities

67. Every corporation shall keep a register or registers of all securities held by the corporation. R.S.O. 1960, c. 222, s. 60.

Application of s. 66 (6-8)

68. Subsections 6 to 8 of section 66 apply to the registers prescribed by section 67. R.S.O. 1960, c. 222, s. 62; 1970, c. 129, s. 14.

Property in books of account

69.—(1) The books used by an auditor, officer, collector or agent for verifying or recording money received for the corporation are the property of the corporation.

Idem

(2) Neither the foregoing persons, nor any solicitor, counsel or other person shall have in or upon these or any other of the books of account or record of the corporation any ownership or proprietary right or any right of lien.

Offence

(3) Every person who, in contravention of this section, withdraws, withholds or detains any of such books from the possession or control of the directors, or from the receiver or liquidator of the corporation, is guilty of an offence. R.S.O. 1960, c. 222, s. 63.

After decease, bankruptcy, etc., of officer, books, etc., to be delivered to corporation

70. Where a person who has been but has ceased to be a director, manager, auditor, officer, agent, collector, servant or employee of a corporation, or any other person unlawfully retains possession of any accounts, books, money, securities, papers, matters or things that are the property of the corporation, a judge of the Supreme Court or of a county or district court, on application of the corporation or any depositor or shareholder therein or of the Registrar, and upon notice to the person affected, may order that such accounts, books, money, securities, papers, matters and things be forthwith delivered to such person as the judge directs and in default that the person so retaining possession shall be imprisoned for such period as the judge directs or until he complies with the direction of the order, and may authorize the sheriff of any county or district in which the same may be found forthwith to seize and take such accounts, books, money, securities, papers, matters and things and deliver them to the person to whom they have been directed to be delivered. R.S.O. 1960, c. 222, s. 64.

Books as evidence

71.—(1) In any action or proceeding against a corporation, the books mentioned in sections 66 and 67 are *prima facie* evidence of the facts purported to be thereby stated.

Idem

(2) The books of a corporation are *prima facie* evidence of the truth of all matters purporting to be therein recorded as between the corporation and its shareholders and as between its shareholders. R.S.O. 1960, c. 222, s. 65.

AUDIT, STATEMENT TO SHAREHOLDERS

72.—(1) The shareholders of a corporation at their first general meeting shall appoint one or more auditors to hold office until the close of the first annual meeting and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments. Auditors

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in the office until a successor is appointed. Appointment annually

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act. Casual vacancy

(4) The shareholders may, by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term. Removal of auditor

(5) Before calling a general meeting for the purpose specified in subsection 4, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor, Notice to auditor

(a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

(6) The auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning his proposed removal as auditor, and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting. Right of auditor to make representations

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors. Remuneration

(8) If for any reason no auditor is appointed, the Registrar may appoint one or more auditors to hold office until the close of the next annual meeting and fix the remuneration to be paid by the corporation for his or their services. Appointment by Registrar

(9) The corporation shall give notice in writing to an auditor of his appointment forthwith after the appointment is made. Notice of appointment

Notice to auditor of proposal to appoint another

(10) A person, other than an incumbent auditor, may not be appointed auditor at an annual meeting unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the corporation not less than fifteen days before the meeting at which the auditor is to be appointed and where such notice is given the corporation shall send a copy of the notice to the incumbent auditor and to the person whom it is intended to nominate and shall give notice thereof to the shareholders in the manner specified in section 19.

Right of incumbent auditor to make representations

(11) The incumbent auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning the proposal not to reappoint him as auditor, and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting. 1970, c. 129, s. 15, *part*.

Interpretation

73.—(1) In this section, “related person” means,

- (a) any spouse, son or daughter of that person;
- (b) any relative of such person or of his spouse, other than a relative referred to in clause *a*, who has the same home as such person; or
- (c) any body corporate of which such person and any of the persons referred to in clause *a* or *b* or the partner or employer of such person, either alone or in combination, beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of the body corporate for the time being outstanding.

Who may be auditor

(2) An auditor of a registered corporation shall be an accountant.

Persons disqualified as auditors

(3) No person shall be appointed auditor of a registered corporation if he or any member of his firm is a shareholder, director, officer or employee of such corporation, or of any company in which such corporation has invested its funds under section 152 or 155.

Auditor appointment

(4) A registered corporation shall, where possible, cause its auditor or one of its auditors to be appointed auditor of any company in which such corporation has invested its funds under section 152 or 155 and where such appointment is not possible the corporation shall inform the Registrar of the circumstances that prevent such appointment.

Application of subs. 3

(5) Subsection 3 does not apply to a person, partner, employer or related person who is not empowered to decide whether securities of the registered corporation or its holding company, as the case may be, are to be beneficially owned, directly or

indirectly, by him, or if he is not entitled to vote in respect thereof.

(6) Where, on the 13th day of November, 1970 an auditor or his partner, employer or related person owns securities as set out in subsection 3, notwithstanding subsection 3, he may for a period of two years from the 13th day of November, 1970 continue to act as auditor if he discloses in the report required under subsection 2 of section 74 that he or his partner, employer or related person so owns such securities but, at the expiration of such period he shall cease to act as auditor unless he or his partner, employer or related person, as the case may be, has disposed of such securities.

Idem

(7) No person shall be appointed a receiver or a receiver and manager or liquidator of any registered corporation of which he or a related person is the auditor or has been auditor within the two years preceding his appointment as receiver or receiver and manager or liquidator.

Auditors not to be appointed receivers, etc.

(8) No person who is appointed a trustee of the estate of a registered corporation under the *Bankruptcy Act* (Canada) or a related person shall be appointed or act as auditor of the registered corporation. 1970, c. 129, s. 15, *part, amended*.

Trustee in bankruptcy not to be appointed auditor R.S.C. 1952, c. 14

74.—(1) The auditor shall make such examination as will enable him to make the reports required under subsection 2.

Auditor's examination

- (2) The auditor of a registered corporation shall make reports,
- (a) to the shareholders on the financial statement of the corporation referred to in sections 19 and 75; and
 - (b) to the Registrar on the annual statement filed with the Registrar under section 168.

Auditor's reports

(3) In the reports required by subsection 2, the auditor shall state,

Idem

- (a) whether he has obtained all the information and explanations he has required;
- (b) whether in the opinion of the auditor the financial statement presents fairly the financial position of the corporation as at the date of the balance sheet included therein and the results of the operations of the corporation for the financial period ended on that date; and
- (c) whether the financial statements are in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any,

in accordance with the information he has obtained and the explanations given to him and as shown by the books of the corporation.

(4) When the opinion expressed in a statement under subsection 2 is not an unqualified opinion, the auditor shall state in his report the reasons therefor.

Qualified report

Facts
discovered
after
statement

(5) Where facts come to the attention of the officers or directors which, if known prior to the date of the last annual general meeting of shareholders, would have required a material adjustment to the financial statement presented to such meeting, the officers or directors shall communicate such facts to the auditor who reported to the shareholders under this section and the directors shall forthwith amend the financial statement and send it to the auditor.

Amendment
of auditor's
report

(6) On the receipt of facts furnished under subsection 5 or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection 4 and the directors or, if they fail to do so within a reasonable time, the auditor shall mail such amended report to the shareholders.

Auditor's
statement

(7) The auditor in his reports shall make such statements as he considers necessary,

- (a) if the corporation's financial statement or annual statement is not in agreement with its accounting records;
- (b) if the corporation's financial statement or annual statement is not in accordance with any requirements of this Act or as prescribed by the Registrar; or
- (c) if proper accounting records have not been kept so far as appears from his examination.

Right of
access, etc.

(8) The auditor of a corporation has right of access at all times to all records, documents, accounts and vouchers of the corporation and is entitled to require from the directors, officers and employees of the corporation such information and explanations as in his opinion are necessary to enable him to report as required by subsection 2.

Idem

(9) The auditor of a corporation has right of access at all times to all records, documents, accounts and vouchers of all subsidiaries of the corporation and is entitled to require from the directors, officers and employees of each such subsidiary such information and explanations as in his opinion are necessary to enable him to report as required by subsection 2.

Idem

(10) Where a subsidiary of the corporation is a body corporate to which this Act does not apply, the holding corporation shall make available to its auditor the records, documents, accounts and vouchers of that subsidiary, and shall require the directors, officers and employees of that subsidiary to make available to its auditor the information and explanations required by subsection 8.

Auditor's
right to
attend
meetings

(11) The auditor of a corporation is entitled to attend any meeting of the shareholders of the corporation, to receive all notices and other communications relating to any such meeting

that a shareholder is entitled to receive and to be heard at any such meeting that he attends on any part of the business that concerns him as auditor.

(12) Any shareholder of a corporation, whether or not he is entitled to vote at meetings of shareholders, may, by notice in writing to the corporation given five days or more before any meeting of shareholders, require the attendance of the auditor at such meeting at the corporation's expense, and in such event the auditor shall attend the meeting.

Shareholder
may require
auditor's
attendance
at share-
holders'
meetings

(13) At any meeting of shareholders the auditor, if present, shall answer inquiries directed to him concerning the basis upon which he formed the opinion stated in the report made under subsection 2.

Auditor may
attend
share-
holders'
meetings

(14) The Registrar may direct that the scope of the annual audit of a corporation be enlarged or extended and may appoint for such purpose an accountant as an auditor of the corporation and the expenses incurred by reason of such appointment are payable by the corporation. 1970, c. 129, s. 15, *part*.

Registrar
may
enlarge
scope

75.—(1) The directors shall lay before each annual meeting of shareholders,

Annual
financial
statement

(a) a financial statement for the period that commenced on the date of incorporation and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, as the case may be, made up of,

- (i) a statement of profit and loss for such period,
- (ii) a statement of retained earnings, or surplus for such period,
- (iii) a statement of general reserve,
- (iv) a statement of accumulated reserves for investments,
- (v) a balance sheet as at the end of such period,

and if the Registrar so directs, showing in each case the corresponding figures for the last preceding financial period of the corporation;

- (b) the report of the auditor to the shareholders;
- (c) such further information respecting the financial position of the corporation, as its letters patent, supplementary letters patent, or by-laws, require.

(2) The Lieutenant Governor in Council may make regulations prescribing the form and content of the financial statement required under subsection 1.

Form

Auditor's
report
to be
read

(3) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection at the meeting by any shareholder.

Approval
by
directors

(4) The financial statement shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign and the auditor's report shall be attached to or accompany the financial statement.

Copy to
shareholders

(5) A corporation shall, at least ten days before the date of the annual meeting of the shareholders, send by prepaid mail to each shareholder entitled to notice of the meeting at his latest address shown on the records of the corporation a copy of the financial statement and a copy of the auditor's report.

Copy
to
debenture
holders

(6) A copy of the financial statement and auditor's report shall be mailed or delivered without charge to any holder of a debenture or guaranteed investment certificate of the corporation or to any depositor of the corporation who requests the same. 1970, c. 129, s. 15, *part*.

Audit
committee

76.—(1) The directors of a corporation shall elect annually from among their number a committee to be known as the audit committee to be composed of not fewer than three directors, of whom the majority shall not be officers or employees of the corporation or an affiliate of the corporation, to hold office until the next annual meeting of the shareholders.

Chairman

(2) The members of the audit committee shall elect a chairman from among their number.

Review

(3) The corporation shall submit the financial statement to the audit committee for its review and the financial statement shall thereafter be submitted to the board of directors.

Hearing of
auditor

(4) The auditor has the right to appear before and be heard at any meeting of the audit committee and shall appear before the audit committee when required to do so by the committee.

Idem

(5) Upon the request of the auditor, the chairman of the audit committee shall convene a meeting of the committee to consider any matter the auditor believes should be brought to the attention of the directors or shareholders. 1970, c. 129, s. 16, *part*.

BORROWING POWERS OF LOAN CORPORATIONS

Application
of ss. 78-83

77. Sections 78 to 83 apply to every loan corporation incorporated under the law of Ontario or having its head office in Ontario and also to every loan corporation borrowing in Ontario by taking deposits or issuing debentures or like obligations. 1970, c. 129, s. 16, *part*.

78.—(1) No loan corporation shall exercise any of the borrowing powers conferred by this Act unless and until it has a capital paid in and unimpaired of at least \$1,000,000.

Amount of capital subscribed and paid in before borrowing powers

(2) Subject to the qualifications, limitations and restrictions contained in this Act, a registered loan corporation, if authorized by by-law, may,

- (a) borrow money by way of loan or on deposit at such rates of interest and upon such terms as the directors may from time to time determine;
- (b) issue debentures, bonds and other securities to evidence any such borrowing; and
- (c) charge, mortgage, hypothecate or pledge all or any of the real or personal property of the corporation present or future, including book debts and unpaid calls, rights, powers, franchises and undertaking, to secure any such debentures, bonds or other securities or any money borrowed.

(3) No by-law for any of the purposes mentioned in subsection 2 takes effect unless such by-law,

Confirming by-law

- (a) has been passed by the affirmative vote of the holders of two-thirds of the shares for the time being carrying voting rights and present or represented by proxy at a general meeting of the shareholders of the corporation duly called to consider such by-law; or
- (b) has been passed by the directors and confirmed at a general meeting of the shareholders of the corporation duly called to consider such by-law by resolution passed by the affirmative vote of the holders of at least two-thirds of the shares for the time being carrying voting rights present or represented by proxy at such meeting. 1970, c. 129, s. 17 (1).

(4) Subsections 1, 2, and 3 apply to loan corporations registered on or after the 1st day of January, 1968 and section 71 of *The Loan and Trust Corporations Act*, being chapter 222 of the Revised Statutes of Ontario, 1960, as amended by section 5 of *The Loan and Trust Corporations Amendment Act, 1966*, applies to loan corporations registered before the 1st day of January, 1968.

Application of subss. 1-3

1966, c. 81

79. Subject to the terms and conditions of any charge, mortgage, hypothec or pledge given by a registered loan corporation to secure any particular borrowing, the holders of deposits and the holders of debentures, bonds or other securities rank *pari passu* on the assets of such corporation and are ordinary creditors thereof. 1970, c. 129, s. 18, *part.*

Ranking of holders of deposits and debentures

Denomin-
ation and
term of
debentures

80. Debentures, bonds or other securities of a registered loan corporation shall,

- (a) be for such individual amounts not less than \$100;
- (b) be payable in such currency and at such place;
- (c) mature on such date not less than one year from the date of issue thereof;
- (d) bear such rate of interest; and
- (e) in all other respects be in such form and terms,

as the directors of the corporation shall from time to time determine. 1970, c. 129, s. 18, *part*.

Reserves
required on
deposits

81.—(1) Every loan corporation shall at all times maintain,

- (a) cash on hand or on deposit in a chartered bank or other depository approved by the Registrar;
- (b) unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of or guaranteed by any province of Canada;
- (c) loans payable on demand and fully secured by securities referred to in clause *b*; and
- (d) subject to the approval of the Registrar and to such conditions as the Registrar may impose, a credit from chartered banks in Canada,

to an aggregate of at least 20 per cent of the amount of deposits and of obligations of the corporation payable in less than 100 days. 1966, c. 81, s. 6, *part*; 1968, c. 66, s. 3 (1, 2), 1970, c. 129, s. 19 (1).

Composition
of reserves

(2) Of the amount maintained under clauses *a*, *b* and *c* of subsection 1,

- (a) at least 25 per cent shall be maintained in cash on hand or on deposit in a chartered bank or other depository approved by the Registrar and in unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada, maturing in three years or less; and
- (b) at least 50 per cent shall be maintained in cash on hand or on deposit in a chartered bank or other depository approved by the Registrar and in unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada, maturing in ten years or less. 1966, c. 81, s. 6; 1968, c. 66, s. 3 (3); 1970, c. 129, s. 19 (2).

Limit on
borrowing

82. The total amount borrowed by a registered loan corporation, by way of the issue of debentures, bonds or other securities

and by way of deposits shall not at any time exceed an amount equal to four times the aggregate of its unimpaired capital and reserve, but the Lieutenant Governor in Council may, on the report of the Registrar and on such terms and conditions as are prescribed in the order in council,

- (a) increase the total amount that may be borrowed by such corporation to an amount not exceeding twenty times the aggregate of such unimpaired capital and reserve; and
- (b) prescribe the portion of the total amount that may be borrowed by such corporation that may be borrowed by way of deposits. 1970, c. 129, s. 20.

83. In ascertaining the extent of the borrowing powers of a corporation, all loans or advances to its shareholders upon the security of their shares shall be deducted from the amount of the paid in capital. R.S.O. 1960, c. 222, s. 76.

Deduction to be made in estimating the paid in capital

POWERS OF TRUST COMPANIES

84. Subject to sections 87, 88 and 89, a provincial trust company may and any other registered trust company that has capacity to do so may,

Powers conferred on trust companies

- (a) take, receive and hold all estates and real and personal property that may be granted, committed, transferred or conveyed to the company with its consent, upon any trust or trusts whatsoever not contrary to law, at any time or times, by any person or persons, body or bodies corporate, or by any court of competent jurisdiction;
- (b) take and receive as trustee or as bailee, upon such terms and for such remuneration as are agreed upon, deeds, wills, policies of insurance, bonds, debentures or other valuable papers or securities for money, jewelry, plate or other chattel property of any kind, and to guarantee the safe keeping of the same;
- (c) receive and store for safe keeping all kinds of securities and personal property and rent spaces or compartments for the storage of securities or personal property and enter into legal contracts for regulating the terms and conditions upon which such business is to be carried on;
- (d) act generally as attorney or agent for the transaction of business, the management of estates, the collection of loans, rents, interest, dividends, debts, mortgages, debentures, bonds, bills, notes, coupons and other securities for money;
- (e) act as agent for the purpose of issuing or countersigning certificates of stock, bonds or other obligations of any

association or municipal or other corporation, and to receive, invest and manage any sinking fund therefor on such terms as are agreed upon;

- (f) accept and execute the offices of executor, administrator, trustee, receiver, liquidator, assignee, custodian, trustee in bankruptcy, or of trustee for the benefit of creditors, and of guardian of any minor's estate, or committee of any mentally incompetent person's estate, and to accept the duty of and act generally in the winding up of estates, partnerships, companies and corporations;
- (g) invest any trust money in the hands of the company in any securities in which private trustees may by law invest trust money;
- (h) guarantee any investment made by the company as trustee, agent or otherwise;
- (i) sell, pledge or mortgage any mortgage or other security, or any other real or personal property held by the company, and make and execute all requisite conveyances and assurances in respect thereof;
- (j) make, enter into, deliver, accept and receive all deeds, conveyances, assurances, transfers, assignments, grants and contracts necessary to carry out the purposes of the company, and promote its objects and business;
- (k) charge, collect and receive all proper remuneration, legal, usual and customary costs, charges and expenses for all such services, duties and trusts. R.S.O. 1960, c. 222, s. 77.

**Interpre-
tation**

85.—(1) In this section, “common trust fund” means a fund maintained by a trust company in which moneys belonging to various estates and trusts in its care are combined for the purpose of facilitating investment.

**Common
trust funds
authorized**

(2) Notwithstanding this or any other Act, any provincial trust company and any other registered trust company that has capacity to do so may, unless the trust instrument otherwise directs, invest trust money in one or more common trust funds of the company, and, where trust money is held by the company as a co-trustee, the investment thereof in a common trust fund may be made by the company with the consent of its co-trustees whether the co-trustees are individuals or corporations.

Regulations

(3) The Lieutenant Governor in Council may make regulations with respect to the establishment and operation of common trust funds and the investment of trust money in such funds. R.S.O. 1960, c. 222, s. 78 (1-3).

(4) A trust company may at any time, and shall when required in writing by the Registrar so to do under subsection 5, file and pass an account of its dealings with respect to a common trust fund in the office of the surrogate court of the county or district in which the fund is being administered, and the judge of the surrogate court, on the passing of such account, has, subject to this section, the same duties and powers as in the case of the passing of executors' accounts.

Passing of
accounts

(5) An account filed with the Registrar pursuant to the regulations, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust company's administration of the common trust fund for the period covered by the account, unless within six months after the date upon which the account is so filed the Registrar requires in writing that such account be filed and passed before a judge of the surrogate court. 1961-62, c. 74, s. 3.

When
account
final

(6) Notwithstanding any other Act or law, a trust company shall not be required to render an account of its dealings with a common trust fund except as provided in this section or the regulations.

Accounting
only necessary
under this section
or regulations

(7) Upon the filing of an account pursuant to this section, the judge of the surrogate court shall fix a time and place for the passing of the account, and the trust company shall cause a written notice of such appointment and a copy of the account to be served upon the Registrar at least fourteen days before the date fixed for the passing, and the trust company shall not be required to give any other notice of the appointment.

Time and
place for
passing of
account

(8) For the purposes of any such accounting, an account may be filed in the form of audited accounts filed with the Registrar pursuant to regulations made under this section.

Form of
account

(9) Upon the passing of an account pursuant to this section, the Registrar shall represent all persons having an interest in the funds invested in the common trust fund, but any such person has the right at his own expense to appear personally or to be separately represented.

Registrar to
represent
persons
having interest
in fund

(10) Where an account filed pursuant to this section has been approved by the judge of the surrogate court, such approval, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust company's administration of the common trust fund for the period covered by the account.

Approval
of judge

(11) The costs of passing an account pursuant to this section shall be charged to principal and income of the common trust fund in such proportions as the judge of the surrogate court considers proper. R.S.O. 1960, c. 222, s. 78 (6-11).

Costs

Pooled trust
fund defined

86.—(1) In this section, “pooled trust fund” means a trust fund maintained or operated by a trust company in which moneys belonging to various participants are combined for the purpose of investment and entitling the participant to receive on demand, or after a specified period after demand, an amount computed by reference to the value of a proportionate interest in the assets of such trust fund, but does not include a trust fund operated where participation is limited to less than fifty persons.

Trust
document

(2) The assets of a pooled trust fund shall be held and managed in trust under a trust document for the purpose that complies with the regulations made under subsection 8.

Filing of
trust
document

(3) No trust company shall offer to any person units or other interests in a pooled trust fund until there has been filed with the Registrar the form of the documents evidencing the trust and such other material as to the reporting to participants, advertising, and training of personnel as the Registrar requires in respect of such offering and a receipt therefor has been obtained from the Registrar.

Information
folder and
delivery to
prospective
purchaser

(4) The Registrar may, when in his opinion such action is in the public interest, require a trust company to file with him an information folder in the form prescribed by the regulations with respect to a pooled trust fund and no application or moneys for participation in the pooled trust fund shall be received by the trust company from a prospective purchaser until the trust company has delivered to the prospective purchaser a copy of the information folder that has been filed and the trust company shall obtain from each prospective purchaser with his application a statement in writing acknowledging that he has received a copy of the information folder.

Form of
information
folder

(5) The information folder shall provide brief and plain disclosure of all material facts relating to the pooled trust fund, shall comply as to form and content with the requirements of the regulations and shall be so certified by the president, vice-president, or managing director or other director appointed for such purpose and by the secretary or manager of the trust company.

New
information
folders

(6) A trust company that has filed an information folder in respect of a pooled trust fund shall, as long as the trust company continues to offer participation in the pooled trust fund, file with the Registrar a copy of a new information folder in respect of its contracts,

- (a) forthwith upon any material changes in any facts set out in the information folder filed in respect of such pooled trust fund; and
- (b) within one year and one month after the date of the latest information folder filed with the Registrar in respect of such pooled trust fund.

(7) When it appears to the Registrar that,

Prohibition
order

- (a) the information folder, or any other document filed with the Registrar by a trust company under this Act or the regulations,
 - (i) fails to comply in any substantial respect with the requirements of this Act or the regulations,
 - (ii) contains any promise, estimate, illustration or forecast that is misleading, false or deceptive, or
 - (iii) conceals or omits to state any material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it is made; or
- (b) the condition or method of operation of the trust company in connection with its pooled trust fund will render its operations hazardous to the public or to its participants in Ontario,

the Registrar shall report the same to the Minister and the Minister, if he concurs in the report and after hearing the trust company, may order the Registrar to prohibit the trust company from continuing to offer participation in such pooled trust fund.

(8) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the form and content of the trust instrument establishing a pooled trust fund;
- (b) prescribing investment restrictions and reserves in respect of pooled trust funds;
- (c) prescribing the form and content of information folders;
- (d) prescribing the qualifications and training of persons who may sell interests in pooled trust funds;
- (e) governing the furnishing of information and advertising to the public in connection with a pooled trust fund;
- (f) requiring trust companies to furnish the Registrar with such information, returns and reports respecting pooled trust funds as is prescribed. 1970, c. 129, s. 21.

87.—(1) A provincial trust company does not have power to borrow money by taking deposits or by issuing debentures.

Trust
companies
not to
borrow by
accepting
deposits

(2) A provincial trust company may borrow money and charge, mortgage, hypothecate or pledge all or any of the real or personal property, present or future, of the company other than property deemed by this Act to be held by the company as trustee or received for investment under sections 88 and 89, to secure any moneys so borrowed. 1970, c. 129, s. 22.

Trust
companies
may
borrow on
own funds

Deposits,
power to
receive

88.—(1) Subject to section 153, a provincial trust company and any other registered trust company that has capacity to do so may receive deposits of money repayable upon demand or after notice and may pay interest thereon at such rates and on such terms as the company from time to time may establish, and the company is entitled to retain the interest and profit resulting from the investment or loaning of such deposit money in excess of the amount of interest payable to depositors.

to be
deemed
trust
moneys
and to be
guaranteed

(2) Every trust company receiving deposits in the manner authorized by subsection 1 shall be deemed to hold the deposits as trustee for the depositors and to guarantee repayment thereof, and there shall be ear-marked and definitely set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof, and for the purposes of this subsection “cash” includes moneys on deposit and “securities” includes loans made upon securities.

record

(3) Every trust company receiving moneys on deposit under this section shall keep a record in the form approved by the Registrar, in which shall be entered all sums so received and the names and addresses, so far as known, of the persons from whom they are received. R.S.O. 1960, c. 222, s. 80.

Money for
investment

89.—(1) Subject to section 153, a provincial trust company and any other registered trust company that has capacity to do so may receive money for the purpose of its being invested by the company and may guarantee the repayment of money so received and the payment of the interest thereon at such rate as is agreed upon on fixed days.

Guarantee

(2) Such guarantee by the company shall not be deemed to be a debenture and the money shall not be deemed to be money borrowed by the company by issuing debentures but to be money received in trust, and in such cases the company is entitled to retain the interest and profits resulting from the investment or loaning of such moneys in excess of the amount of interest payable thereon.

Securities
allocated to
guaranteed
investment

(3) Where it is provided by the agreement under which moneys are received by the company for guaranteed investment as mentioned in subsection 1 that specific securities shall be allocated in respect thereof, such securities shall be ear-marked and definitely set aside in respect thereof, and in respect of all other moneys received for guaranteed investment as mentioned in subsection 1 there shall be ear-marked and definitely set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof, and for the purposes of this subsection “cash” includes moneys on deposit and “securities” includes loans made upon securities. R.S.O. 1960, c. 222, s. 82.

90.—(1) The total of the moneys received by a registered trust company as deposits under section 88 and for investment under section 89 or borrowed under section 87 shall not at any time exceed an amount equal to four times the aggregate of its unimpaired capital and reserve, but the Lieutenant Governor in Council may, on the report of the Registrar and on such terms and conditions as are prescribed in the order in council,

Limit on
guaranteed
funds

- (a) increase the total amount that may be so received by such company to an amount not exceeding twenty times the aggregate of such capital and reserve; and
- (b) prescribe the portion of the total amount that may be so received or borrowed by such company that may be received by way of deposits.

(2) In ascertaining the amounts that may be received or borrowed by a trust company under subsection 1, all loans or advances to its shareholders upon the security of their shares shall be deducted from the amount of the unimpaired capital. 1970, c. 129, s. 24, *part*.

Deduction to
be made in
estimating
the paid in
capital

91. Notwithstanding anything in this Act, a trust company may, with the approval of the Registrar, hypothecate, mortgage or pledge the cash and securities ear-marked and set aside under sections 88 and 89 of this Act to the Canada Deposit Insurance Corporation for a loan from that Corporation. 1970, c. 129, s. 24, *part*.

Pledge of
securities
to Canada
Deposit
Insurance
Corporation

92.—(1) The liability of a trust company to persons interested in an estate held by the company as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee is the same as if the estate had been held by a private person in the like capacity, and the company's powers are the same.

Extent of
liability

(2) Where a trust company is authorized to execute the office of executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee, and the Lieutenant Governor in Council approves of the company being accepted as a trust company for the purposes of the Supreme Court, every court or judge having authority to appoint such an officer may, with the consent of the company, appoint the company to exercise any of such offices in respect of any estate or person under the authority of such court or judge, or may grant to the company probate of any will in which the company is named as an executor; but no company that has issued or has authority to issue debentures or debenture stock, or that has received or has authority to receive deposits, except in the manner authorized by this Act, shall be approved.

Approval of
company as
executor,
etc.

(3) A trust company so approved may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee.

Appoint-
ment of
company
as sole
trustee

idem

(4) A trust company so approved may be appointed to any of the offices mentioned in subsection 2 jointly with another person.

When
appointment
may be made
by court
R.S.O. 1970,
c. 470

(5) Such appointment may be made whether the trustee is required under a deed, will or document creating a trust or whether the appointment is under *The Trustee Act* or otherwise.

Security not
required

(6) Notwithstanding any rule or practice or any provision of any Act requiring security, it is not necessary for the company to give any security for the due performance of its duty as such executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee unless otherwise ordered.

Revocation
of approval

(7) The Lieutenant Governor in Council may at any time revoke the approval given under this section. R.S.O. 1960, c. 222, s. 83.

Reserves
required on
deposits

93.—(1) Every trust company shall at all times maintain,

- (a) cash on hand or on deposit in a chartered bank or other depository approved by the Registrar;
- (b) unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of or guaranteed by any province of Canada;
- (c) loans payable on demand and fully secured by securities referred to in clause b; and
- (d) subject to the approval of the Registrar and to such conditions as the Registrar may impose, a credit from chartered banks in Canada,

to an aggregate of at least 20 per cent of the amount of deposits and of funds received for guaranteed investment coming due in less than 100 days. 1966, c. 81, s. 7, *part*; 1968, c. 66, s. 4 (1, 2); 1970, c. 129, s. 25 (1).

Composition
of reserves

(2) Of the amount maintained under clauses a, b and c of subsection 1,

- (a) at least 25 per cent shall be maintained in cash on hand or on deposit in a chartered bank or other depository approved by the Registrar and in unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada, maturing in three years or less; and
- (b) at least 50 per cent shall be maintained in cash on hand or on deposit in a chartered bank or other depository approved by the Registrar and in unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada, maturing in ten years or less. 1966, c. 81, s. 7, *part*; 1968, c. 66, s. 4 (3); 1970, c. 129, s. 25 (2).

GENERAL POWERS

94.—(1) Every corporation may establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or former employees of the corporation, or its predecessors in business, or the dependants or connections of such persons, and to grant pensions and allowances and make payments towards insurance or for any object similar to those set forth in this subsection, and to subscribe or guarantee money for charitable or benevolent objects, or for any exhibition or for any public, general or useful object.

Powers of corporation as to benefit funds, etc., for employees and their families

(2) Every provincial corporation shall be deemed to have possessed since the date of its incorporation the powers set forth in subsection 1 including the power to exercise such powers jointly with any registered corporation, by whatever authority incorporated, possessing the same or similar powers, in such a way as to benefit the employees, or former employees, of such corporations or predecessors in business of such corporations or the dependants or connections of such persons. R.S.O. 1960, c. 222, s. 85.

Declaration as to powers of corporation

95. The charter or other instrument of incorporation of a corporation may at any time, for cause shown to his satisfaction, be suspended or revoked by the Lieutenant Governor in Council. R.S.O. 1960, c. 222, s. 86.

Suspension or revocation of charter

96. Every provincial corporation, unless it is otherwise expressly declared in the Act or instrument creating it, has and shall be deemed from its creation to have had the general capacity that the common law ordinarily attaches to corporations created by charter. R.S.O. 1960, c. 222, s. 87.

Capacity of corporations

97. Every provincial corporation, unless it is otherwise expressly provided in the Act or instrument creating it, may exercise its powers beyond Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. R.S.O. 1960, c. 222, s. 88.

Extension of business beyond Ontario

98. A corporation may maintain a reserve fund out of its earnings or other income not required to meet its present liabilities. R.S.O. 1960, c. 222, s. 89.

Reserve fund

99.—(1) A corporation may pass a by-law prohibiting the loaning to shareholders upon the security of their shares, or, subject to the limitations contained in this section, may pass a by-law fixing the aggregate amount that may be loaned on such shares, and neither of such by-laws shall be repealed until all liabilities of the corporation are discharged.

Prohibition or limitation of loans upon shares

Limitation
as to loans
on its own
stock

(2) Subject to subsection 1, the corporation may lend upon its own paid up stock to an amount not exceeding at any one time in the aggregate of all such loans 10 per cent of the corporation's paid up stock.

Margin

(3) No such loan shall exceed 80 per cent of the market price of the stock. R.S.O. 1960, c. 222, s. 90.

Not to lend
on own
stock

100. A corporation shall not, except in the manner provided by section 99, lend on its own shares with or without collateral security. R.S.O. 1960, c. 222, s. 91.

Prohibition
against
acting as
insurance
agent

101.—(1) No corporation, and no director, officer or employee thereof, either personally or on behalf of such corporation, and no other company the majority of the capital stock of which is owned or controlled by such corporation, its shareholders, directors, officers or employees, shall, either directly or indirectly, transact the business of or act as insurance agent or broker within the meaning of *The Insurance Act*, or exercise pressure upon any borrower or mortgagor to place insurance for the security of such corporation, in or through any particular agency or brokerage office, but nothing in this section prevents such corporation from stipulating in its contract of loan that any required insurance must be effected with an approved insurer.

R.S.O. 1970,
c. 224

Exception

(2) Subsection 1 does not apply to the director of a corporation who is able to satisfy the Superintendent of Insurance that the business of insurance is his major occupation. R.S.O. 1960, c. 222, s. 92.

Minors
may make
deposits

102. A person not of the full age of twenty-one years may deposit money with a registered corporation in his own name, and the money so deposited may be repaid to him, and he may give a valid discharge therefor, notwithstanding his minority. R.S.O. 1960, c. 222, s. 93.

Trusts

103.—(1) A corporation is not bound to see to the execution of any trust, whether express, implied or constructive, to which any share of its stock, or any deposit, guaranteed investment certificate or debenture is subject.

Sufficient
discharge

(2) The receipt of the person in whose name any such share, deposit, guaranteed investment certificate or debenture stands in the books of the corporation is a sufficient discharge to the corporation for any payment made in respect thereof, and a direction to transfer, signed by the person in whose name any such share, deposit, guaranteed investment certificate or debenture stands in the books of the corporation, is sufficient authority to the corporation for any transfer made in respect thereof, notwithstanding any trust to which the same may then be subject and whether the corporation has or has not had notice of the trust.

(3) A corporation is not bound to see to the application of the money paid upon such receipt. R.S.O. 1960, c. 222, s. 94. Application of money paid

104. A provincial corporation may, by writing under its seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute on its behalf, deeds to which it is a party in any capacity in any place situate in or outside Ontario, and every deed signed by such attorney, on behalf of the corporation and under his seal, binds the corporation and has the same effect as if it were under the seal of the corporation. R.S.O. 1960, c. 222, s. 95. Power of attorney by corporation

105.—(1) A provincial corporation may have a seal to be known as the “official seal” for use in any territory, district or place outside Ontario, which shall be a facsimile of the seal of the corporation, with the addition on its face of the name of the territory, district or place where it is to be used. Official seal for use abroad

(2) A corporation having an official seal may, by writing under its seal, authorize any person appointed for the purpose in any territory, district or place outside Ontario, to affix it to any deed or other document to which the corporation is party in any capacity in that territory, district or place. Authority to agent to affix seal

(3) The person affixing an official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing it. Certifying date and period of sealing

(4) A deed or other document to which an official seal is duly affixed binds the corporation as if it had been sealed with the seal of the corporation. R.S.O. 1960, c. 222, s. 96. Effect of official seal

AMALGAMATION OF CORPORATIONS AND PURCHASE AND SALE OF ASSETS

106.—(1) Any registered loan corporation may unite, merge, amalgamate and consolidate its stock, property, business and franchises with those of any other loan corporation in Canada, or may purchase the assets of any such corporation, or may sell its assets to any registered corporation, and for the purpose of carrying out such purchase or sale the purchasing corporation shall assume the liabilities of the vendor corporation, and may enter into such bond or agreement of indemnity with the corporation or the individual shareholders thereof, or both, as may be necessary, and the corporations may enter into the contracts and agreements necessary to such union, merger amalgamation, consolidation, sale or purchase. R.S.O. 1960, c. 222, s. 97; 1970, c. 129, s. 26. Power to unite with other corporations and to purchase or sell assets

(2) Sections 107 to 114 do not apply to the purchase by a registered extra-provincial corporation of the assets of a corporation that is not registered under this Act. R.S.O. 1960, c. 222, s. 97 (2). Where ss. 107-114 do not apply

Directors may make agreement for amalgamation or for purchase or sale of assets

107.—(1) The directors of any corporation mentioned in section 106 may enter provisionally into a joint agreement under the seal of each of the corporations for the union, merger, amalgamation or consolidation of the corporations, or for the sale or purchase by the one corporation of the assets of the other corporation.

Matters to be specified in agreement

(2) The agreement shall prescribe the terms and conditions of the proposed transaction and the mode of carrying it into effect.

Idem

(3) If the two corporations are to be merged into one corporation, the agreement shall specify the name of the new or of the continuing corporation, and the number of directors and the officers thereof, and shall state who are to be the first directors and officers, the capital stock, the number of shares into which such stock is divided, the par value of the shares and the manner of converting the capital stock of each of the existing corporations into that of the new or continuing corporation.

Other details

(4) The agreement shall contain such other details as the directors of the corporations consider necessary to perfect the new organization, and the union, merger, amalgamation and consolidation, and the after management and working thereof, and to complete the terms and mode of payment for the assets of one corporation purchased or acquired by the other.

Consideration

(5) In an agreement for the purchase and sale of assets, the consideration may consist wholly or in part of partly paid or of paid up shares of the permanent capital stock of the purchasing corporation.

Agreement to be subject to approval of shareholders

(6) Such agreement or, if no agreement has been entered into but an offer has been made by a corporation under its seal for the purchase of the assets of another corporation, such offer shall be submitted to the shareholders of each corporation at a meeting thereof to be held separately for the purpose of taking the agreement or the offer into consideration.

Notice of meeting to consider agreement

(7) Notice of the time and place of the meeting of the corporation in which he holds shares and the objects thereof shall be given by written or printed notice addressed to every shareholder, together with a copy of the proposed agreement, at his last known post office address, and also by a general notice in a newspaper published at the chief place of business of the corporation once a week for six successive weeks.

Notice to Registrar

(8) A like notice, together with two copies of the proposed agreement, shall be delivered to the Registrar at least one month before the date of either of the meetings of shareholders called to consider it. R.S.O. 1960, c. 222, s. 98.

108. At each of the meetings of shareholders the agreement or offer shall be considered, and if at each meeting the holders of at least 50 per cent of the issued shares of the corporation for the time being carrying voting rights are present in person or represented by proxy and the agreement or offer is ratified or accepted by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting, that fact shall be certified upon the agreement or offer by the secretary or manager of each corporation under the seal of such corporation. 1970, c. 129, s. 27.

Proceedings
to ratify
agreement

109. The Lieutenant Governor in Council, in the case of a proposed purchase of assets, may dispense with the ratification or acceptance of the agreement or offer by the shareholders of the purchasing corporation where it is shown to his satisfaction that the shareholders, after due notice thereof, have ratified a general resolution or by-law authorizing the purchase of the assets of any loan corporation upon the basis and within the limits specified in such agreement or offer. R.S.O. 1960, c. 222, s. 100.

Dispensing
with
ratification

110.—(1) If the agreement is ratified or the offer is accepted at the meeting of the shareholders of each of the corporations, or in the case provided for in section 109 at the meeting of the shareholders of the selling corporation, the agreement or offer, with the certificates or certificate thereon, shall be filed with the Registrar.

Ratified
agreement
to be filed

(2) The Registrar shall submit the agreement or offer for the assent of the Lieutenant Governor in Council.

Assent

(3) If the Lieutenant Governor in Council assents thereto, the agreement or offer shall be deemed to be the agreement and act of union, amalgamation and consolidation of the corporations, or the agreement and deed of purchase and acquisition of the assets of the selling corporation by the purchasing corporation. R.S.O. 1960, c. 222, s. 101.

Effect of
assent

111.—(1) Upon proof that the foregoing requirements have been duly complied with, the Minister shall issue a certificate under his hand and seal certifying the assent of the Lieutenant Governor in Council and the date thereof, and declaring the purchase and the sale of the assets and the names of the corporations who are parties thereto, or, in the case of amalgamation, declaring the amalgamation of the corporations, naming them, and the name of the new or of the continuing corporation, together with such other matters, if any, as appear to him necessary or desirable in the public interest.

Certificate
of assent

(2) The certificate of the Minister is for all purposes and in all courts conclusive evidence of all matters therein certified or declared.

Effect as
evidence

Notice

(3) The Registrar shall give public notice in *The Ontario Gazette* of the issue of the Minister's certificate.

Registration of certificate of assent

(4) It is sufficient to register a certified copy of the Minister's certificate in each registry division or land titles office in which instruments affecting lands or interests in lands, included or intended to be included in the transfer or amalgamation, are registered. R.S.O. 1960, c. 222, s. 102 (1-4).

Certificate of Registrar

(5) Any document under the hand or purporting to be under the hand of the Registrar, certifying the document to be or to contain a true copy of the Minister's certificate or of any instrument referred to in the certificate, shall be registered in any registry division by the registrar thereof or by the proper master of titles upon it being tendered to him for registration accompanied by the proper fee.

Registration in general register

(6) The certificate shall be entered in the general register of the registry division or in the book kept in the land titles office.

Certified copies of certificate
R.S.O. 1970,
c. 234

(7) Copies so certified of any such certificate or instrument shall be received by the proper master of titles under *The Land Titles Act* as conclusive evidence of all matters therein certified or declared.

Bills of sale and chattel mortgages
R.S.O. 1970,
c. 45

(8) For the purpose of any instrument required to be registered under *The Bills of Sale and Chattel Mortgages Act*, it is sufficient in order to show the transmission of title in respect of any personal property or interest in personal property included or intended to be included in a transfer or amalgamation, such as is mentioned in section 110 and this section, if the instrument affecting such property or interest recites the certificate registered as provided in subsection 4 and states the registry division in which it is registered and its registration number.

Application of section

(9) This section extends to and includes any such certificate or certified copy issued or purporting to have been issued after the 13th day of April, 1897, under *The Loan Corporations Act*, being chapter 205 of the Revised Statutes of Ontario, 1897. R.S.O. 1960, c. 222, s. 102 (6-10).

Evidence of assent of the Lieutenant Governor in Council

112. The Registrar may, by a certificate under his hand and seal endorsed upon or identifying the agreement or offer mentioned in subsection 6 of section 107, or any counterpart or copy thereof, certify that the agreement or offer has been assented to by the Lieutenant Governor in Council, and his certificate with a copy of the order in council attached is *prima facie* evidence of such assent. R.S.O. 1960, c. 222, s. 103.

Assets of selling corporation to vest in purchasing corporation

113.—(1) In the case of a purchase and sale of assets so assented to, the assets of the selling corporation become vested in the purchasing corporation on and from the date of such assent without any further conveyance, and the purchasing corporation

thereupon becomes and is responsible for the liabilities of the selling corporation.

(2) In dealing with the assets of the selling corporation, it is sufficient for the purchasing corporation to recite the agreement and the assent of the Lieutenant Governor in Council thereto, with the date of the assent. Disposal of assets by purchasing corporation

(3) No such transfer affects the rights of any creditor of the transferring corporation. Rights of creditors

(4) By every such agreement made or purporting to be made under this Act, the purchasing corporation shall be deemed to covenant and agree with each creditor of the selling corporation that the purchasing corporation will pay to him the sum in which the selling corporation is indebted to him at such time and place as such sum would have been payable had such agreement not been made. R.S.O. 1960, c. 222, s. 104 (1-4). Privity of contract between purchasing corporation and each creditor of selling corporation

(5) Where the Lieutenant Governor in Council assents to an agreement for the sale of the assets of a corporation, the selling corporation is, from the date of the assent, dissolved, except so far as is necessary to give full effect to the agreement. R.S.O. 1960, c. 222, s. 104 (5); 1960-61, c. 48, s. 1. Dissolution of selling corporation

114.—(1) In the case of an amalgamation, the parties thereto are, from the date of the assent of the Lieutenant Governor in Council, consolidated and amalgamated and they shall continue thereafter as one corporation under the jurisdiction specified in the amalgamation agreement and by the name stated in the Minister's certificate. 1960-61, c. 48, s. 2 (1). Amalgamation

(2) From the date of the assent, all the business and real and personal property, and all the rights and incidents appurtenant thereto, all stock, mortgages and other securities, subscriptions and other debts due, and other things in action belonging to each of the amalgamating corporations are vested in the amalgamated corporation without further act or deed. Business and property vested in amalgamated corporation

(3) All rights of creditors and liens upon the property of each of the amalgamating corporations are unimpaired by the amalgamation. Creditors' rights

(4) All debts, liabilities and duties of each of the amalgamating corporations attach to the amalgamated corporation from the date of the assent and may be enforced against it to the same extent as if they had been incurred or contracted by it. 1970, c. 129, s. 29 (1). Debts and liabilities

(5) Where the amalgamated corporation is to continue as a provincial corporation, the Lieutenant Governor shall, by letters patent, issue to the amalgamated corporation a charter, as at the date of the assent, confirming the amalgamation agreement and Charter

continuing the amalgamated corporation as if it had been incorporated under this Act.

To permit continuation of amalgamated company under another jurisdiction

(6) Where the amalgamated corporation is to continue as other than a provincial corporation and one or more, but not all, parties to the amalgamation agreement are provincial corporations, the parties to the amalgamation agreement may apply to the proper officer of the jurisdiction of continuation specified in the amalgamation agreement for an instrument amalgamating and continuing them as an amalgamated corporation under the laws of that jurisdiction and as incidental thereto a provincial corporation may apply for letters patent or other instrument continuing it as if it had been incorporated under the laws of that jurisdiction. 1970, c. 129, s. 29 (2).

Acquisition or amalgamation by registered loan corporation by purchase of shares

115.—(1) In addition to its powers under section 106, a registered loan corporation may, for the purpose of either acquiring the assets of any other loan corporation in Canada or uniting, merging or amalgamating with any such corporation under sections 106 to 114, purchase not less than 67 per cent of the outstanding shares of any such corporation, subject to the following:

1. No such purchase shall be made unless authorized by the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council may authorize such purchase on the report of the Registrar supported by evidence that,
 - (a) an offer to purchase has been accepted,
 - (i) in writing by the holders of at least 67 per cent of the outstanding shares of such other corporation, or
 - (ii) by resolution or resolutions carried by the affirmative vote of the holders of at least 67 per cent of the outstanding shares of each class of such corporation at a general meeting of the shareholders thereof; and
 - (b) the purchase has been submitted to a general meeting of the shareholders of the purchasing corporation at which the holders of at least 50 per cent of the issued shares of such corporation for the time being carrying voting rights are present in person or represented by proxy and the purchase is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting.
3. The power to purchase shares under this section is in addition to the powers set forth in section 150, and the

limitations and provisos contained in section 157 do not apply to any such purchase of shares.

4. Where a corporation has purchased shares under this section, it shall within a period of two years after the purchase has been authorized by the Lieutenant Governor in Council proceed under sections 106 to 114 either to acquire the assets and assume the duties, obligations and liabilities of the other corporation or to unite, merge or amalgamate with such other corporation, but the Lieutenant Governor in Council, on being satisfied that the circumstances so warrant, may extend such period from time to time and, after the expiration of such period and any such extension thereof, the shares so purchased shall not be allowed as assets of the purchasing corporation in the annual report prepared by the Registrar for the Minister, and the Registrar may direct the corporation to sell or otherwise absolutely dispose of such shares. 1970, c. 129, s. 30.

(2) The consideration for the shares acquired under the authority of this section may be cash or shares in the capital stock of the purchasing corporation or in part cash and in part shares of the purchasing corporation or such other consideration as is agreed upon.

Consideration for shares

(3) Nothing in this section shall be construed as authorizing a corporation to purchase or acquire its own shares.

No power to purchase own shares

(4) Any provisions in any letters patent or special Act by which a purchasing corporation was incorporated, or in any other statute or law, granting any shareholders or other persons a primary right to an allotment of shares, do not apply to the issue of any shares by the purchasing corporation for the purpose of subsection 2. R.S.O. 1960, c. 222, s. 106 (2-4).

Allotment rights not to apply

116.—(1) In this section, “fiduciary” includes a trustee, bailee, executor, administrator, assignee, guardian, committee, receiver, liquidator or agent, and “instrument” includes every will, codicil, or other testamentary document, settlement, instrument of creation, deed, mortgage, assignment, an Act of the Legislature, and a judgment, decree, order, direction and appointment of any court, judge, or other constituted authority.

Interpretation

(2) Any registered trust company may unite, merge, amalgamate and consolidate its stock, property, business and franchises with those of any other trust company in Canada or may purchase the assets of any corporation in Canada or may sell its assets to any registered trust company, and for the purpose of carrying out such purchase or sale the purchasing corporation shall assume the

Power of trust companies to unite with other corporations and to purchase or sell assets

liabilities of the vendor corporation, and may enter into such bond or agreement of indemnity with the vendor corporation or the individual shareholders thereof, or both, as may be necessary, and the corporations may enter into the agreements necessary to such union, merger, amalgamation, consolidation, sale or purchase, and subsection 2 of section 106 and sections 107 to 114 apply *mutatis mutandis* thereto.

Where trust
company
purchases
assets of
loan
corporation

(3) In the case of a purchase of the assets of a loan corporation by a trust company under subsection 2, the trust company shall definitely set aside in respect of any debentures and deposits of the loan corporation of which the trust company assumes payment, securities, or cash and securities, equal to the aggregate amount of such debentures and deposits, and for the purposes of this subsection "cash" includes moneys on deposit and "securities" includes loans made upon securities.

Trusts to
pass to
new
companies

(4) On and from the assent of the Lieutenant Governor in Council, as provided in subsection 1 of section 111, to the purchase and sale, or to the amalgamation, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon either of the corporations, parties to the purchase and sale, or to the amalgamation, are vested in and bind and may be enforced against the purchasing or new or continuing corporation as fully and effectually as if it had been originally named as the fiduciary in the instrument.

Subject
matter of
trust to
vest in new
company

(5) Whenever in an instrument any estate, money or other property, or any interest, possibility or right is intended at the time or times of the publishing, making or signing of the instrument to be thereafter vested in or administered or managed by or put in the charge of the selling corporation or of either of the amalgamated corporations as the fiduciary, the name of the new or continuing corporation shall be deemed to be substituted for the name of the old corporation, and such instrument vests the subject-matter therein described in the new or continuing corporation according to the tenor of, and at the time indicated or intended by the instrument, and the new or continuing corporation shall be deemed to stand in the place and stead of the old corporation.

References
in will or
codicil

(6) Where the name of the selling corporation or of either of the amalgamated corporations appears as executor, trustee, guardian, or curator in a will or codicil, such will or codicil shall be read, construed and enforced as if the new or continuing corporation was so named therein, and it has, in respect of the will or codicil, the same status and rights as the selling or amalgamating corporation.

Duties of
old corpora-
tion not
completed

(7) In all probates, administrations, guardianships, curatorships or appointments of administrator or guardian *ad litem* issued or made by any court in Ontario to the selling corporation

or to either of the amalgamated corporations, from which at the date of such assent it had not been finally discharged, the new or continuing corporations shall *ipso facto* be substituted therefor. R.S.O. 1960, c. 222, s. 107.

117.—(1) In addition to its powers under section 116, a registered trust company may, for the purpose of either acquiring the assets of any corporation in Canada or uniting, merging or amalgamating with any other trust company in Canada under section 116, purchase not less than 67 per cent of the outstanding shares of any such corporation or trust company, subject to the following:

Acquisition
or amalga-
mation by
registered
trust
company by
purchase of
shares

1. No such purchase shall be made unless authorized by the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council may authorize such purchase on the report of the Registrar, supported by evidence that,
 - (a) an offer to purchase has been accepted,
 - (i) in writing by the holders of at least 67 per cent of the outstanding shares of such other corporation or trust company, or
 - (ii) by resolution or resolutions carried by the affirmative vote of the holders of at least 67 per cent of the outstanding shares of each class of such other corporation or trust company at a general meeting of the shareholders thereof; and
 - (b) the purchase has been submitted to a general meeting of the shareholders of the registered trust company at which the holders of at least 50 per cent of the issued shares of such company for the time being carrying voting rights are present in person or represented by proxy and the purchase is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting.
3. The power to purchase shares under this subsection is in addition to the powers that a registered trust company has under section 153, and the limitations and provisos contained in section 157 do not apply to any such purchase of shares.
4. Where a trust company has purchased shares under this section it shall within a period of two years after such purchase has been authorized by the Lieutenant Governor in Council proceed under section 116 either to acquire the assets and assume the duties, obligations

and liabilities of the other corporation or to unite, merge or amalgamate with such other trust company, but the Lieutenant Governor in Council, on being satisfied that the circumstances so warrant, may extend such period from time to time and, after the expiration of such period and any such extension thereof, the shares so purchased shall not be allowed as assets of the purchasing trust company in the annual report prepared by the Registrar for the Minister, and the Registrar may direct such trust company to sell or otherwise absolutely dispose of such shares. 1970, c. 129, s. 31.

Consideration

(2) The consideration for the shares acquired under the authority of this section may be cash or shares in the capital stock of the purchasing company or in part cash and in part shares of such purchasing company or such other consideration as is agreed upon.

No power to purchase own shares

(3) Nothing in this section shall be construed as authorizing a company to purchase or acquire its own shares.

Allotment rights not to apply

(4) Any provisions in any letters patent or special Act by which a purchasing company was incorporated, or in any other statute or law, granting any shareholders or other persons a primary right to an allotment of shares, do not apply to the issue of any shares by the purchasing company for the purposes of subsection 2. R.S.O. 1960, c. 222, s. 108 (2-4).

REGISTRAR

Appointment

118.—(1) There shall be a Registrar and an assistant registrar who shall be appointed by the Lieutenant Governor in Council.

Assistant registrar, duties

(2) The assistant registrar shall perform the duties of the Registrar in the case of the latter's absence or illness, or of a vacancy in the office of Registrar, and shall also perform such other duties as may be assigned to him by the Lieutenant Governor in Council, by the Minister or by the Registrar. R.S.O. 1960, c. 222, s. 109 (1, 2).

Protection from personal liability

(3) No action or other proceeding for damages shall be instituted against the Registrar or assistant registrar, or anyone acting under the authority of the Registrar or assistant registrar, for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty. 1970, c. 129, s. 32.

Official seal

119. The Registrar shall have a seal of office, which shall bear upon its face the words "Registrar of Loan and Trust Corporations". R.S.O. 1960, c. 222, s. 110.

120.—(1) The Registrar shall keep, Registers:

(a) a register to be called the "Loan Companies' Register", Loan companies' register
wherein shall be recorded the names of the loan corporations that are from time to time entitled to registry; and

(b) a register to be called the "Trust Companies' Register", Trust companies' register
wherein shall be recorded the names of the trust companies that are from time to time entitled to registry. R.S.O. 1960, c. 222, s. 111 (1); 1970, c. 129, s. 33.

(2) A corporation shall not be registered on more than one of No corporation to be registered on more than one register
such registers, and shall not transact or undertake business in Ontario other than the business for which it is registered. R.S.O. 1960, c. 222, s. 111 (2).

121.—(1) The duty of determining, distinguishing and registering the corporations that under this Act are required to be Duties of Registrar
registered and are entitled to registry, and of granting registry accordingly, is upon the Registrar, subject to appeal as provided in section 140.

(2) For the purposes of his duties, the Registrar may require to Power to require evidence
be made or may take and receive affidavits or depositions and may examine witnesses upon oath.

(3) The evidence and proceedings in any matter before the Registrar may be reported by a stenographer who has taken an Employment of stenographer
oath before the Registrar faithfully to report the same. R.S.O. 1960, c. 222, s. 112.

122.—(1) The Registrar shall prepare for the Minister, from Annual report
statements filed by the corporations and from any inspection or inquiries made, an annual report, showing particulars of the business of each corporation as ascertained from such statements, inspection and inquiries, and the report shall be printed and published forthwith after completion.

(2) In the report, the Registrar shall allow as assets only such Only authorized investments allowed as assets
of the investments of the several corporations as are authorized by this Act or by their Acts of incorporation or by the general Acts applicable to such investments.

(3) In the report, the Registrar shall make all necessary Corrections in annual statements
corrections in the annual statements made by the corporations herein provided and is at liberty to increase or diminish the assets or liabilities of the corporations to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office or any branch thereof or otherwise.

(4) If it appears to the Registrar or if he has any reason to Appraisal of over-valued real estate
suppose from the statements prepared and delivered to him by the corporations or otherwise that the value placed by any

corporation upon the real estate owned by it, or any parcel thereof, is too great, or that the amount secured by mortgage or hypothec upon any parcel of real estate, together with interest due and accrued thereon is greater than the value of the parcel, or that the parcel is not sufficient for the loan and interest, or that the value of any investments of the funds of the corporation or of its trust funds is less than the amount of the value of the investments shown in the books of the corporation, he may require the corporation to secure an appraisalment of such real estate or other security by one or more competent valuers or he may himself procure such appraisalment at the expense of the corporation, and, if it is made to appear that the value of such real estate or other security held is less than the amount at which it is carried on the books of the corporation or is not adequate security for the loan and interest, he may write off such real estate, loan and interest, or investment, a sum sufficient to reduce its book value to such amount as may fairly be realized therefrom, such amount in no case to exceed the appraised value, and may insert such reduced amount in the report. R.S.O. 1960, c. 222, s. 113 (4).

Registrar
may
examine
corporation
books, etc.

123.—(1) The Registrar or any person authorized under his hand and seal may, with the approval of the Minister, at any time within business hours, examine the books, vouchers, securities and documents of a corporation, and any officer or person in charge, possession, custody or control of the books, vouchers, securities or documents refusing or neglecting to afford such examination is guilty of an offence, and the corporation, if registered, is liable to have its registry suspended.

Cancellation
of registry
for refusing
examination

(2) The corporation, on continued refusal or neglect to afford such examination, is liable to have its registry cancelled or not renewed after termination of the current certificate. R.S.O. 1960, c. 222, s. 114 (1, 2).

Special
audits

(3) Where,

- (a) a corporation is three months in default in the delivery of the annual statement required by section 168; or
- (b) for eighteen consecutive months there has been no audit of the books and accounts of the corporation; or
- (c) there is filed with the Registrar a requisition for audit bearing the signatures and addresses of at least twenty-five shareholders of the corporation holding shares upon which not less than \$10,000 in the aggregate has been paid in, alleging specific fraudulent or illegal acts or repudiation of contracts or alleging that the accounts of the corporation have been materially and wilfully falsified and accompanied by a deposit of \$1,000 or such other sum as the Registrar may fix as security for the cost of the audit,

the Registrar may appoint an accountant who shall under his direction make a special audit of the books, accounts and securities of the corporation and make to the Registrar a written report thereon. 1970, c. 129, s. 34 (1).

(4) A special auditor so appointed is sufficiently accredited if he delivers to the secretary or to any managing officer of the corporation a written statement under the hand and seal of the Registrar to the effect that the Registrar has nominated him to audit the books, accounts and securities of the corporation. Credentia-
ls of auditor

(5) The expense of a special audit shall be borne by the corporation, and the auditor's account therefor when approved in writing by the Registrar is conclusive and shall be paid forthwith. Expenses
of special
audit

(6) Where the facts alleged in the requisition appear to the Registrar to have been partly or wholly disproved by the audit, and he considers it just, he may pay the costs of the audit partly or wholly out of the deposit. Payment of
costs out
of deposit

(7) The deposit or the balance, if any, remaining after payment of such costs shall be returned to the requisitioning shareholders upon the order of the Registrar. R.S.O. 1960, c. 222, s. 114 (4-7). Return of
balance of
deposit

(8) Where a corporation, by its officer, employee, servant or agent having in his custody, possession or power the funds, books, vouchers, securities or documents of the corporation, refuses to have them duly audited as provided by section 74, or by this section or by section 124, or obstructs an auditor or examiner in the performance of his duties, the Registrar, upon proof of the fact, may suspend or cancel the registry of the corporation, or may terminate the registry upon the expiry of the current certificate of registry. R.S.O. 1960, c. 222, s. 114 (8); 1970, c. 129, s. 34 (2). Where
corporation
resists or
obstructs
audit

(9) If the report of the special auditor appears to the Registrar to disclose fraudulent or illegal acts or repudiation of contracts or that the accounts of the corporation have been materially and wilfully falsified, he shall notify the corporation accordingly and furnish to it a copy of the report and the corporation shall within two weeks thereafter file a statement with the Registrar replying to such report. Report of
special
auditor

(10) Upon consideration of the report and the corporation's statement in reply and such further evidence, documentary or oral, as he may require, the Registrar shall by a decision in writing continue, suspend or cancel the registry of the corporation or impose such terms or conditions upon the registry of the corporation, as he considers appropriate. 1970, c. 129, s. 34 (3). Registrar's
decision

Appointment of examiner

124.—(1) The Minister, of his own motion or upon an application being made to him in writing, may appoint any competent person to make a special examination and audit of a corporation's books, accounts and securities, and to inquire generally into the conduct of its business.

Evidence upon which inquiry to be ordered

(2) The application shall be supported by such evidence as the Minister may require for the purpose of showing that there is good reason for requiring the investigation to be made and that it is not prompted by malicious motives.

Security for costs

(3) The Minister may require security for the payment of the costs of the inquiry to be given before appointing the examiner.

Powers of examiner as to summoning witnesses, etc.
R.S.O. 1970, c. 379

(4) The examiner may summon witnesses and take evidence under oath, and generally, for the purposes of such examination, audit and inquiry, has the like powers as may be conferred on a commissioner appointed under *The Public Inquiries Act*.

Report to Minister

(5) Upon the conclusion of the examination, audit and inquiry, the examiner shall make his report in writing to the Minister.

Additional information

(6) The Registrar may, by notice in writing, whenever he sees fit, require a corporation to make, in addition to its annual or other returns required by this Act, a return verified by affidavit of one of its officers, or to furnish information verified in the same manner upon any subject connected with its affairs, and it shall make the return within the time mentioned in the notice.

Notice

(7) The notice may be given to the president, secretary, managing director or other officer or officers having apparent control of the books of the corporation, or any of them in Ontario, and non-compliance with the notice is an offence. R.S.O. 1960, c. 222, s. 115 (1-7).

Notice to be evidence

125.—(1) A notice published in *The Ontario Gazette* over the name of the Registrar or assistant registrar is, without further proof, *prima facie* evidence of the facts set forth in the notice.

Official publications

(2) All copies of returns, reports or other official publications of the Registrar purporting to be printed by the Queen's Printer and Publisher, or to be printed by order of the Assembly, shall, without further proof, be admitted as evidence of such publication and printing and as true copies of the originals.

Certificate as to registry

(3) A certificate under the hand of the Registrar or assistant registrar and the Registrar's seal of office that on a stated day the corporation mentioned therein was or was not registered, or that the registry of a corporation was originally granted, or was renewed, suspended, revived or cancelled, on a stated day, is *prima facie* evidence of the facts stated in the certificate.

Copies of or extracts from official documents

(4) Copies of, or extracts from, any book, record, instrument or document in the office of the Registrar or of or from any official

instrument or document issued under this Act shall, if certified by him or by the assistant registrar to be true copies or extracts and sealed with the Registrar's seal of office, be held as authentic and are *prima facie* evidence of the same legal effect as the original. R.S.O. 1960, c. 222, s. 116.

126.—(1) The Registrar personally shall visit or cause a duly qualified member of his staff to visit at least once annually the head office of each registered corporation, other than a corporation as to which he adopts the inspection of another government, and he shall inspect and examine the statements of the condition and affairs of each corporation and make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as and when they become due, and whether or not it has complied with this Act, and the Registrar shall report thereon to the Minister as to all matters requiring his attention and decision.

Annual inspection of registered corporations

(2) Where the Registrar considers it necessary and expedient to make a further examination into the affairs of a corporation and so reports to the Minister, the Minister may in his discretion instruct the Registrar to visit or cause a duly qualified member of his staff to visit any branch office or offices of the corporation to inspect and examine into its affairs and to make such further inquiries as the Minister may require.

Further inspection

(3) For the purpose of an examination, the corporation shall prepare and submit to the Registrar such statements with respect to its business, finances or other affairs, in addition to the statement mentioned in this Act, as the Registrar may require, and the officers, agents and servants of the corporation shall cause their books to be open for inspection and shall otherwise facilitate such examination so far as it is in their power.

Material to be furnished on inspection

(4) In order to facilitate the examination of the books and records of a corporation, the corporation may be required by the Registrar, with the approval of the Minister, to produce the books and records at the head office or chief office of the corporation in Ontario, or at such other convenient place as the Registrar may direct.

Production of books

(5) The Registrar, or any person authorized by the Minister, may examine under oath the officers, agents or servants of the corporation for the purpose of obtaining any information that he considers necessary for the purpose of the examination.

Examination

(6) Where an examination is made under subsection 2 of any branch or other office situated outside Ontario, the corporation shall pay the account in connection with the examination upon the certificate of the Registrar approved by the Minister. R.S.O. 1960, c. 222, s. 117.

Expense of further inspection

Inquiries by
Registrar

127.—(1) The Registrar may address any inquiries to a registered corporation or to the president, manager or secretary thereof for the purpose of ascertaining its condition and ability to meet its obligations or as to the conduct of its business and it is the duty of any corporation or officer so addressed to reply promptly in writing to any such inquiry.

Notice to
directors

(2) The Registrar may require a corporation to forward a copy of any letter addressed to the corporation by the Registrar and any answer thereto to each director of the corporation and upon such requirement being made the president of the board of directors shall instruct the secretary of the corporation to include a copy of such letter and the answer thereto in the minutes of the meeting of the directors next following the requirement of the Registrar.

Answers
may be
included in
Registrar's
annual
report

(3) The Registrar may, in his discretion, embody in his annual report to the Minister the inquiries and requirement made by him under this section and the answers thereto. 1970, c. 129, s. 36.

Special
report where
condition
unsound

128.—(1) If, as the result of the examination, the Registrar is of opinion that the assets of the corporation are insufficient to justify its continuance in business, he shall make a special report to the Minister on the condition of the corporation.

Power to
cancel or
suspend
registry

(2) If the Minister, after a reasonable time has been given to the corporation to be heard by him, and upon such further inquiry and investigation as he sees fit to make, reports to the Lieutenant Governor in Council that he agrees with the opinion of the Registrar, the Lieutenant Governor in Council may, if he also concurs in the opinion, suspend or cancel the registry of the corporation, and the corporation shall thereupon cease to transact further business, but the Minister may, during such suspension or cancellation, issue such conditional registry as he considers necessary for the protection of the public.

Sale and
transfer
under
conditional
registry

(3) If the Minister considers it advisable, the conditional registry may provide that the corporation shall, during the continuance of the conditional registry, arrange for the sale of its assets and for the transfer of its liabilities.

When
registration
cancelled

(4) If upon the expiration of the conditional registry no arrangement satisfactory to the Minister has been made for such sale and transfer, and if in the opinion of the Minister the corporation's condition is not then such as to warrant the restoration of the corporation's registry, the registration shall be cancelled. R.S.O. 1960, c. 222, s. 118.

Assets
not
accounted
for

129.—(1) Where it comes to the attention of the Registrar that a provincial corporation may not be able to account satisfactorily for any assets that appear on its books and, upon investiga-

tion, the Registrar is satisfied that any such assets cannot be satisfactorily accounted for and that the circumstances so warrant, he may immediately take possession and control of the assets of such corporation and maintain such control on his own initiative for a period of seven days and, with the concurrence of the Minister, for any longer period that the Minister may order for the purpose of the Registrar's report under subsection 1 of section 130.

(2) The Registrar may release any assets under his possession and control that he considers advisable for the purposes of the corporation. 1970, c. 129, s. 37, *part*. Release of assets

130.—(1) Where the Registrar is of the opinion that the assets of a provincial corporation are not sufficient to meet its liabilities in respect of moneys received in trust or borrowed he shall so report to the Minister. Report to Minister

(2) Where the Minister, after full consideration of the matter and after a reasonable time has been given to the corporation to be heard by him, and upon such further inquiry or investigation as he sees fit to make, agrees with the opinion of the Registrar under subsection 1, the Minister may do one or both of the following, Remedial powers of the Minister

(a) make the corporation's registry subject to such limitations or conditions as he considers appropriate;

(b) prescribe a time within which the corporation shall make good any deficiency of assets.

(3) If the corporation fails to make good any deficiency of assets within the time that has been prescribed under clause *b* of subsection 2, or any extension thereof subsequently given by the Minister, the Minister shall submit the report of the Registrar to the Lieutenant Governor in Council and the Lieutenant Governor in Council, if he agrees with the report, may order the Registrar to take possession and control of the assets of the corporation and the Registrar shall deliver a copy of the order to an officer of the corporation. Subsequent action

(4) For the purposes of this section, the Minister may appoint such persons as he considers necessary to value and appraise the assets and liabilities of the corporation and report upon its condition and its ability, or otherwise, to meet its liabilities. 1970, c. 129, s. 37, *part*. Appointment of appraisers

131.—(1) If so ordered by the Lieutenant Governor in Council under section 130, the Registrar shall take possession and control of the assets of a provincial corporation and shall thereafter conduct its business and take such steps as in his opinion should be taken toward its rehabilitation, and for such purposes the Registrar has all the powers of the board of directors of the Power of Registrar upon taking control

corporation, and, without limiting the generality of the foregoing, the Registrar may,

- (a) exclude the directors, officers, servants and agents of the corporation from the premises, property and business of the corporation; and
- (b) carry on, manage and conduct the operations of the corporation and in the name of the corporation preserve, maintain, realize, dispose of and add to the property of the corporation, receive the incomes and revenues of the corporation and exercise all the powers of the corporation.

Application
to court

(2) While the Registrar has possession and control of the assets of a corporation under this section, the Minister may direct the Registrar to apply to the court for an order for the winding up of the corporation under Part VII of *The Corporations Act*.

R.S.O. 1970,
c. 89

Appointment
of managers

(3) Where the Registrar is in possession and control of the assets of a corporation and is conducting its business, he may appoint one or more persons to manage and operate the business of the corporation, and,

- (a) each person so appointed is a representative of the Registrar; and
- (b) the remuneration of any such person, other than an employee of the office of the Registrar, shall be fixed by the Minister.

Relinquish-
ing control

(4) Whenever the Minister believes that a corporation whose assets are in the possession and control of the Registrar meets all the requirements of this Act and that it is otherwise proper for the corporation to resume possession and control of its assets and the conduct of its business, the Minister may, in writing, direct the Registrar to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Registrar under this section cease.

Where
rehabilitation
efforts futile

(5) If the Minister, on the report of the Registrar, considers that further efforts to rehabilitate a corporation whose assets are in the possession and control of the Registrar would be futile, he may, in writing, direct the Registrar to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Registrar under this section cease.

Expenses of
proceedings

(6) The expenses of the Registrar incurred in rehabilitation proceedings under this section and sections 129 and 130 shall be paid,

- (a) where the corporation that is the subject of the proceedings is a loan corporation, by all loan corporations; or

- (b) where the corporation that is the subject of the proceedings is a trust company, by all trust companies,

and the share of each shall be in the same proportion as its total net income earned in Ontario in its last preceding fiscal year bears to the total net income earned in Ontario of all loan corporations or trust companies, as the case may be, in the last preceding fiscal year of each.

(7) The corporations required to bear the said expenses of the Registrar may appoint a committee of not more than six members to advise the Registrar in respect of all matters pertinent to the rehabilitation of the corporation whose assets are in the possession and control of the Registrar. 1970, c. 129, s. 37, *part*. Advisory committee

132.—(1) Notwithstanding section 131, a provincial corporation may appeal to a judge of the Court of Appeal from any order made by the Lieutenant Governor in Council under section 130 within thirty days after the delivery of a copy of the order to an officer of the provincial corporation, and the practice and procedure in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action. Appeal

(2) An order of the Lieutenant Governor in Council under section 130 shall take effect immediately, but where there is an appeal, a judge of the Court of Appeal may grant a stay until any appeal is disposed of. Stay

(3) The Minister shall certify to the Registrar of the Supreme Court, Material on appeal

- (a) the decision of the Lieutenant Governor in Council;
- (b) the reports of the Registrar to the Minister or the Lieutenant Governor in Council;
- (c) the record of any hearing; and
- (d) all written submissions by the appellant to the Registrar, the Minister or the Lieutenant Governor in Council.

(4) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Representation

(5) Where an appeal is taken under this section, the judge may by order direct the Registrar to take such action as the judge considers proper or refrain from taking any action specified in the order and the Registrar shall act accordingly. Order

(6) The order of the judge is final and there is no appeal therefrom, but, notwithstanding the order, the Minister and the Lieutenant Governor in Council have power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to appeal under this section. 1970, c. 129, s. 37, *part*. Further decision

REGISTRATION

Applications
for initial
registry

133.—(1) Applications for initial registry shall be made according to a form to be supplied by the Registrar, and the applicant shall deliver to the Registrar the application duly completed, together with such information, material and evidence as the form may require.

Material to
be furnished

(2) The applicant shall, if required, furnish such further information, material and evidence, and give such public notice of the application as the Registrar may direct.

Financial
statement to
accompany
application

(3) The applicant shall file with the application a statement in the form required by the Registrar of the financial condition and affairs of the corporation on the 31st day of December next preceeding or on the last day of the fiscal year of the corporation, if the last day is not more than twelve months before the filing of the statement, and the statement shall be signed and verified as prescribed by section 75. R.S.O. 1960, c. 222, s. 119.

Registration
of extra-
provincial
corporations

134.—(1) Where a corporation applying for registry has its head office outside Ontario, the application shall be accompanied by a power of attorney from the corporation to an agent or agents resident in Ontario.

Execution
of power of
attorney

(2) The power of attorney shall be under the seal of the corporation, and shall be signed by the president and secretary or other proper officers thereof in the presence of a witness who shall make oath as to its due execution.

Authen-
tication

(3) The official positions in the corporation held by the officers signing the power of attorney shall be verified by the oath of a person cognizant of the facts.

Contents of
power of
attorney

(4) The power of attorney shall declare at what place in Ontario the chief agency of the corporation is, or is to be established, and shall expressly authorize the agent or agents to receive service of process in all actions and proceedings against the corporation in Ontario for any liability incurred by the corporation therein, and also to receive from the Registrar all notices that the law requires to be given, or that it is thought advisable to give, and shall declare that service of process for or in respect of such liability on any of the agents and receipt of the notices at the chief agency or personally by any of the agents is legal and binding on the corporation.

Filing of
power of
attorney

(5) The power of attorney and the affidavit of execution shall be filed with the Registrar.

Authority
conferred by
power of
attorney

(6) The power of attorney may confer upon the agent or agents any further or other powers that the corporation considers advisable.

(7) The production of a copy of the power of attorney certified by the Registrar is sufficient evidence for all purposes of the power and authority of the person or persons therein named to act on behalf of the corporation in the manner and for the purposes set forth in the certified copy. Effect of copy as evidence

(8) Whenever the corporation changes any of its agents or the chief agency in Ontario, it shall file with the Registrar a similar power of attorney, stating the change or changes and containing a similar declaration as to service of process and notices. Changes in chief agent or agency

(9) After the power of attorney is filed, any process in any action or proceeding against the corporation for a liability incurred in Ontario may be validly served on the corporation at its chief agency, but nothing in this section renders invalid service in any other mode in which a corporation may be lawfully served. Service of process thereafter

(10) This section applies notwithstanding any special or other legislation of Ontario affecting any registered corporation. Application of section
R.S.O. 1960, c. 222, s. 120.

135.—(1) The Registrar shall cause to be entered on the proper register the name of every corporation entitled to registry, together with the date of the commencement of the registry and the term for which the registry is to endure. Recording registry; entries on register

(2) The term begins on the date of such commencement and ends not later than the 30th day of June next ensuing. Term of registry

(3) The Registrar shall also cause to be entered on the register the place where the head office and the chief agency, if any, are situate, and if there is a chief agency, the name and address of the chief agent and of the agent or agents appointed under section 134. Particulars to be entered

(4) If the registry is suspended, revived, revoked or cancelled, the date of and authority for such suspension, revivor, revocation or cancellation shall also be entered. Entering suspension, etc., of registry

(5) The Registrar shall issue under his hand and seal of office to every registered corporation a certificate of registry, setting forth that the corporation is entitled to registry as a (*describing the corporation*) under this Act, and that the corporation is accordingly registered for the term stated in the certificate. Issue of certificate of registry

(6) Every certificate of registry shall specify the first day and the last day of the term for which the corporation is registered, and the corporation so registered shall be deemed to be registered from the commencement of the first day to the end of the last day so specified. Commencement and end of term

(7) A certificate of registry that does not specify an earlier date of expiry, unless sooner suspended or cancelled, remains valid until the next ensuing 30th day of June, when, if the corporation Duration of registry

has complied with the law and continues solvent, it is entitled to a certificate of renewed registry, and so on every succeeding 30th day of June thereafter.

Interim
certificate

(8) Notwithstanding failure to comply with this Act within the prescribed time, the Registrar may, upon payment of the prescribed fee, grant an interim certificate of registry or extend the currency of a subsisting certificate. R.S.O. 1960, c. 222, s. 121.

Restrictions
upon use of
names

136.—(1) No corporation shall be registered under a name identical with that under which any other existing corporation is registered, or under any other name likely, in the opinion of the Registrar, to deceive, mislead or confuse the public as to its identity.

New names

(2) No registered corporation shall be registered under a new or different name except upon proof that such new or different name is authorized by law.

Change of
corporate
name

(3) Where a provincial corporation desires to adopt a name different from that by which it was incorporated, or where, in the opinion of the Registrar, the name by which the corporation was incorporated may be confused with that of another existing corporation, the Lieutenant Governor in Council may change the name of the corporation to some other name to be stated in the order in council.

Not to affect
rights or
obligations

(4) No change of name affects the rights or obligations of the corporation.

Change of
head office

(5) The location of the head office of a corporation may be changed in like manner.

Notice

(6) Such public notice shall be given of any change of name or head office, and of any application for such change, in *The Ontario Gazette* and otherwise as the Registrar may direct. R.S.O. 1960, c. 222, s. 122.

What
admissible
to registry

137.—(1) Trust companies whose powers do not include that of buying and selling land as beneficial owner except as authorized by this Act and do not exceed the powers that are conferred upon trust companies under this Act and loan corporations that are solvent and fall within one of the following classes, may, upon due application, be admissible to registry:

1. Corporations duly constituted under the law of Ontario.
2. Corporations which, being duly incorporated or constituted under the laws of any other province of Canada, or of Canada, or of the United Kingdom, were in actual, active and *bona fide* operation in Ontario on the 16th day of April, 1912, but such corporations are admissible to registry only on due application and with the approv-

al of the Minister and on such terms and conditions as he may prescribe.

3. Corporations duly constituted as joint stock corporations under the laws of any other province of Canada or of Canada that issue only permanent shares and have a subscribed permanent stock of not less than \$300,000, whereof \$100,000 is paid in and unimpaired. R.S.O. 1960, c. 222, s. 123 (1); 1970, c. 129, s. 38 (1).

(2) Any registry purporting to have been made before the 1st day of May, 1914, by any corporation mentioned in paragraph 2 of subsection 1 shall be deemed for all purposes to have been a registry under this Act from the date of commencement of such purported registry. R.S.O. 1960, c. 222, s. 123 (2). Registry validated

(3) Upon the application for registration of a corporation, other than a provincial corporation, the Registrar may recommend to the Minister that the corporation be admitted to registry on terms and conditions and the Minister, if he so approves, may direct that the corporation be admitted to registry on such terms and conditions as he may prescribe. 1970, c. 129, s. 38 (2). Registry on terms

(4) A trust company duly constituted as a joint stock corporation under the laws of any other province of Canada shall not be registered unless it is shown to the satisfaction of the Registrar that, in the locality in which the company proposes to carry on business, there exists a public necessity for a trust company or for an additional trust company and the Registrar is satisfied that the fitness of the applicant to discharge the duties of a trust company is such as to command the confidence of the public and that the public convenience and advantage will be promoted by granting registration to the company. 1965, c. 61, s. 3. When extra-provincial trust company may be registered

(5) Any trust company authorized by a special Act of Ontario to carry on business in Ontario is not barred from registry merely because its powers exceed those conferred upon trust companies by this Act. Company authorized by special Act

(6) A corporation that invests in or purchases mortgages, charges or hypothecs on real estate or that lends money on the security of real estate shall not be registered unless at least 95 per cent of such investments, purchases or loans are or are secured by first mortgages, charges or hypothecs. R.S.O. 1960, c. 222, s. 123 (4, 5). Minimum mortgage holdings

(7) No other corporation shall be registered. R.S.O. 1960, c. 222, s. 123 (6), *amended*. No others

138.—(1) Upon proof that registry or a certificate of registry has been obtained by fraud or mistake, or that a corporation exists for an illegal purpose, or is insolvent, or has failed to pay its Suspension or cancellation of registry

obligations, or has wilfully and after notice from the Registrar contravened any of the provisions of this Act, or of the Act or instrument incorporating it, or of any law in force in Ontario, or has ceased to exist, its registry may be suspended or cancelled by the Registrar.

Notice to be given to the corporation

(2) On the suspension or cancellation of the registry of any existing corporation, the Registrar shall cause notice in writing thereof to be delivered to it.

Notice

(3) Where the corporation has ceased to exist, the notice shall be published in *The Ontario Gazette*.

Corporation to cease business except for winding-up purposes

(4) After such suspension or cancellation, or after termination of registry without renewal, the corporation shall, unless again registered, cease to transact or undertake business in Ontario, except so far as is necessary for the winding up of its business, but any liability incurred by it may be enforced against it as if such suspension, cancellation or termination had not taken place. R.S.O. 1960, c. 222, s. 124.

Decision of Registrar to be in writing and to be delivered to corporation

139. Where in any disputed case the Registrar decides that a corporation is or is not legally entitled to registry, or to renewal of registry, or where he suspends, revives or cancels the registry of a corporation, his decision, except as otherwise provided, shall be given in writing, and he shall cause a copy thereof certified under his seal of office to be delivered to the corporation. R.S.O. 1960, c. 222, s. 125.

Review

140.—(1) Any corporation whose registration or right to registration is affected by a decision of the Registrar may, by notice in writing served upon the Registrar within thirty days after the delivery of the copy of the decision under section 139, request a hearing and review of the matter by the Registrar.

Notice of hearing

(2) Where a hearing and review is requested, the Registrar shall send a notice in writing to the corporation notifying it of the time and place of the hearing.

Evidence

(3) Upon a review, the Registrar may hear such evidence as is submitted to him that in his opinion is relevant to the matter in dispute, and he is not bound by any law respecting the admissibility of evidence, and all oral evidence submitted shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Registrar form the record.

Powers on review

(4) Upon a review, the Registrar may confirm or revoke his former decision or make alterations therein or addition thereto as he considers proper.

(5) Notice of his decision made upon a review shall be delivered forthwith to the corporation that requested the review. R.S.O. 1960, c. 222, s. 126 (1-5). Decision to be delivered

(6) Where the Registrar has reviewed a decision and given his decision upon the review, the corporation that requested the review may appeal to a judge of the Court of Appeal. Appeal

(7) Every appeal shall be by notice of motion served upon the Registrar within thirty days after the delivery of the decision under subsection 5, and the practice and procedure in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, except that the Rules Committee may vary or amend such practice and procedure in respect of appeals taken under this section. Form of appeal

(8) The Registrar shall certify to the Registrar of the Supreme Court, Certificate of Registrar

- (a) the decision that has been reviewed by the Registrar;
- (b) the decision of the Registrar upon the review, together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to the Registrar and other material that in the opinion of the Registrar are relevant to the appeal.

(9) The Minister of Justice and Attorney General may designate counsel to assist the judge upon the hearing of any appeal taken under this section. Counsel

(10) Where an appeal is taken under this section, the judge may by his order direct the Registrar to make such decision as the Registrar is authorized to do under this Act and as the judge considers proper, and thereupon the Registrar shall act accordingly. Order of judge

(11) The order of the judge is final and there is no appeal therefrom, but, notwithstanding the order, the Registrar has power to make any further decision upon new material or where there is a material change in the circumstances, and every such further decision is subject to this section. R.S.O. 1960, c. 222, s. 126 (6-11). Further decision

141. The Registrar may at the request of the corporation, evidenced as he may direct, cancel its registry. R.S.O. 1960, c. 222, s. 127. Cancellation of registry on request of corporation

142. If on receiving an application for registry the Minister finds in the by-laws of the applicant anything repugnant to this Act or to the law of Ontario, he may direct an amendment of the by-laws, and, upon their being amended as directed and returned Minister may direct amendment of by-law

certified as having been so amended, the application may be proceeded with. R.S.O. 1960, c. 222, s. 129.

Return of
evidence as
to by-laws

143.—(1) Every corporation doing business in Ontario, if required so to do by the Registrar, shall furnish satisfactory evidence that any by-law has been duly passed and is a legal and valid by-law according to the Act or instrument incorporating the corporation and also that the by-law conforms to the law of Ontario.

Refusal to
furnish
evidence

(2) A corporation refusing or failing to furnish such evidence promptly is liable to have its registry suspended or cancelled. R.S.O. 1960, c. 222, s. 130.

Capital
requirement
before
registration

144. No trust company that was not registered on the 1st day of January, 1968, shall be registered to transact business in Ontario unless it has a capital paid in and unimpaired of at least \$1,000,000. 1968, c. 66, s. 5.

Representa-
tions that
standing of
corporation
is vouched
for by
Registrar

145.—(1) No corporation shall, under the penalty of becoming disentitled to registry or of having its registry suspended or cancelled, make, print, publish, circulate, authorize or be a party or privy to the making, printing, publishing or circulating of any statement or representation that its solvency or financial standing is vouched for by the Registrar or that the publication of its statement in his report is a warranty or representation of the solvency of the corporation or of the truth or accuracy of the statement in any particular.

Offence

(2) Any director, auditor, officer, servant, employee or agent of a corporation who makes or uses or authorizes or is party or privy to the making or using of any such statement or representation is guilty of an offence. R.S.O. 1960, c. 222, s. 132.

UNREGISTERED CORPORATIONS

No unregis-
tered cor-
poration to
undertake
business

146.—(1) No incorporated body or person acting in its behalf, other than a registered corporation and a person duly authorized by it to act in its behalf, shall undertake or transact in Ontario the business of a loan corporation or of a trust company. R.S.O. 1960, c. 222, s. 133 (1); 1970, c. 129, s. 40.

Certain
matters
deemed
undertaking
business

(2) Any setting up or exhibiting of a sign or inscription containing the name of the corporation, or any distribution or publication of any proposal, circular, card, advertisement, printed form or like document in the name of the corporation, or any written or oral solicitation on the corporation's behalf shall, both as to the corporation and as to the person acting or purporting to act on its behalf, be deemed undertaking the business of the corporation within the meaning of this section.

Offence

(3) Any promoter, organizer, manager, director, officer, collector, agent, employee or person who undertakes or transacts any

business of a corporation that is not registered under this Act is guilty of an offence. R.S.O. 1960, c. 222, s. 133 (2, 3).

147. Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under *The Insurance Act*, assuming or using in Ontario a name that includes any of the words "Loan", "Mortgage", "Trust", "Trusts", or "Guarantee", in combination or connection with any of the words "Corporation", "Company", "Association" or "Society", or "Limited", or "Incorporated" or any abbreviations thereof, or in combination or connection with any similar collective term, or assuming or using in Ontario any similar name, or any name or combination of names that is likely to deceive or mislead the public is guilty of an offence, and any person acting on behalf of such person, partnership, organization, society, association, company or corporation is also guilty of an offence, but where any of such combinations of words formed part of the corporate name of a corporation duly incorporated by or under the authority of an Act of Ontario or of the Parliament of Canada before the 1st day of July, 1900, the combination may continue to be used in Ontario as part of the corporate name. R.S.O. 1960, c. 222, s. 134.

Use of
certain
words in
name of
company
while un-
registered
R.S.O. 1970,
c. 224

148.—(1) In this section, "contract" means any contract, agreement, undertaking or promise,

Inter-
pretation

- (a) to pay to or for the contract holder any money or money's worth;
- (b) to sell, supply or procure any building or site or land or to bring about the purchase and sale or supply thereof; or
- (c) to construct or procure the construction of any house or building,

made upon any consideration that includes an entrance or membership fee, or expense contribution, initial, renewal, periodical or recurrent, or that includes any periodical or recurrent contribution to a fund, or account, or source for, or intended or alleged to be for, the carrying out of such contract, and includes any contract, agreement, undertaking or promise, the benefit of which to the contract holder paying any such consideration is to be wholly or partly postponed or deferred until other contract holders have been provided for, or is to depend upon the number or the persistence of the other contract holders, or upon the accession of new contract holders, or upon the order or sequence of the contract.

(2) Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under *The Insurance Act*, undertaking or effecting, or offering to undertake or effect, any contract is guilty

Prohibition
of certain
contracts

of an offence, and any person acting on behalf of such person, partnership, organization, society, association, company or corporation, is also guilty of an offence, and the convicting provincial judge, in addition to imposing the prescribed penalty, may at the time of conviction or thereafter make such order for the restitution of the money that was unlawfully taken as to him seems just, and, in default of compliance with such order, the offender is liable to imprisonment for a term of not more than twelve months. R.S.O. 1960, c. 222, s. 135, *amended*.

Use of sign,
name or
document
inducing
illegal
contract

149. Where in any case arising under section 146, 147 or 148 it is found by the provincial judge that the person, partnership, organization, society, company or corporation charged or his or its agent is exhibiting or using any sign, inscription or name, or distributing, using or publishing any document, including any proposal, circular, card, advertisement, notice, application, contract or printed form that, in the opinion of the provincial judge, induces, or tends to induce, a contravention of any such section, or is likely to deceive or mislead the public either as to the party or the status of the party undertaking the contract, or as to the nature, terms or effect of the contract, the provincial judge may summarily order the discontinuance of such sign, inscription, name or document, and non-compliance with such order is an offence. R.S.O. 1960, c. 222, s. 136, *amended*.

INVESTMENTS

Investments
of loan
corporations

150.—(1) A registered loan corporation may purchase or invest in,

mortgages

(a) ground rents, mortgages, charges or hypothecs upon improved real estate or leaseholds in Ontario or elsewhere where the corporation is carrying on business, but the amount paid for the mortgage, charge or hypothec, together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the mortgage, charge or hypothec in which the purchase or investment is made, shall not exceed three-quarters of the value of the real estate or leasehold to which the mortgage, charge or hypothec relates;

N.H.A.
mortgages

(b) mortgages, charges or hypothecs upon improved real estate or leaseholds in Canada, notwithstanding that the amount paid for the mortgage, charge or hypothec exceeds three-quarters of the value of the real estate or leasehold, if the loan for which the mortgage, charge or hypothec is security is an approved loan or an insured loan under the *National Housing Act, 1954* (Can.);

1953-54,
c. 23 (Can.)

- (c) mortgages, charges or hypothecs on improved real estate or leaseholds in Canada or in any country where the corporation is carrying on business, or bonds or notes secured by such mortgages, charges or hypothecs, notwithstanding that the mortgage, charge or hypothec exceeds the amount that the corporation is otherwise authorized to invest if the excess is guaranteed or insured by or through an agency of the government of the country in which the real estate or leasehold is situated or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada) or *The Insurance Act* or similar legislation of any province or territory of Canada; insured mortgages
R.S.C. 1952, cc. 31, 125
R.S.O. 1970, c. 224
- (d) mortgages or assignments of such life insurance policies as have at the date of the purchase or investment an ascertained cash surrender value admitted by the insurer; mortgages and assignments of life insurance policies
- (e) the debentures, bonds, stock or other securities of or guaranteed by the Government of Canada or of or guaranteed by the government of any province of Canada, or of or guaranteed by the government of the United Kingdom, or of any of Her Majesty's dominions, colonies or dependencies, or of any state forming part of any such dominion, colony or dependency, or of or guaranteed by any foreign country or state forming part of such foreign country where the interest on the securities of such foreign country or state has been paid regularly for the previous ten years, or of any municipality or school corporation in Canada or elsewhere where the corporation is carrying on business, or guaranteed by any municipal corporation in Canada, or secured by rates or taxes levied under the authority of the government of any province of Canada on property situated in such province and collectable by the municipalities in which the property is situated; government bonds
- (f) the bonds, debentures or other securities issued or guaranteed by, bonds, etc., issued or guaranteed by the International Bank, etc.
- (i) the International Bank for Reconstruction and Development,
 - (ii) Inter-American Development Bank or by Asian Development Bank, or
 - (iii) the government of any country in which the corporation is carrying on business or a province or state thereof;

bonds
secured by
trust deed

- (g) the bonds, debentures, debenture stock, notes or other securities of any company that are secured by a mortgage or hypothec to a trust company either singly or jointly with another trustee upon improved real estate of such company or other assets of such company of the classes mentioned in clauses *a, b, c, d* and *e*;

federal
subsidy
bonds

- (h) the bonds or debentures of a company or institution incorporated in Canada that are secured by the assignment to a trust company in Canada of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds or debentures outstanding and to meet the principal amount of the bonds or debentures upon maturity;

provincial
subsidy
bonds

- (i) the bonds or debentures of a company or institution incorporated in Canada that are secured by the assignment to a trust company in Canada of payments that are payable, by virtue of an Act of a province of Canada, by or under the authority of the province, if such payments are sufficient to meet the interest as it falls due on the bonds or debentures outstanding and to meet the principal amount of the bonds or debentures upon maturity;

transporta-
tion
equipment
security

- (j) obligations or certificates issued by a trustee to finance, for a company incorporated in Canada or for a company owned or controlled by a company so incorporated, the purchase of transportation equipment to be used on railways or public highways, if the obligations or certificates are fully secured by,
- (i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and
 - (ii) a lease or conditional sale thereof by the trustee to the company;

debentures

- (k) the bonds, debentures or other evidences of indebtedness of or guaranteed by,
- (i) any company if, at the date of investment, the preferred shares or the common shares of the company are authorized as investments by clause *l* or *m*, or
 - (ii) any company where the earnings of the company in a period of five years ending less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least $1\frac{1}{2}$ times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it other than indebtedness classified as a current

liability in the balance sheet of the company, and if the company at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another company, the earnings of the companies during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the companies shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the company; and for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

- (l) the preferred shares of a company where the company ^{preferred shares} has paid,
 - (i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or
 - (ii) if the common shares of the company are, at the date of investment, authorized as investments by clause *m*;
- (m) the fully paid common shares of a company that during ^{common shares} a period of five years that ended less than one year before the date of purchase or investment has either,
 - (i) paid a dividend in each such year upon its common shares, or
 - (ii) had earnings in each such year available for the payment of a dividend upon its common shares,

of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the company during the year in which the dividend was paid or in which the company had earnings available for the payment of dividends, as the case may be;
- (n) real estate or leaseholds for the production of income in ^{real estate for the production of income} Canada or in any country in which the corporation is carrying on business, either alone or jointly with any other corporation incorporated in Canada or with any insurance company transacting the business of insurance in Canada, if,
 - (i) a lease of the real estate or leasehold is made to, or guaranteed by,
 - (A) the government, or an agency of the government of the country in which the real estate or

leasehold is situated, or of a province, state or municipality of that country, or

(B) a company, the preferred shares or common shares of which are, at the date of investment, authorized as investments by clause *l* or *m*,

- (ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested by the corporation in the real estate or leasehold within the period of the lease, but not exceeding thirty years from the date of investment,
- (iii) the total investment of the corporation in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the corporation, and
- (iv) the book value of the investments of the corporation in real estate or leaseholds for the production of income under this clause and clause *o* do not exceed 10 per cent of the book value of the total assets of the corporation,

and the corporation may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

other real
estate for
the
production
of income

- (o) real estate or leaseholds for the production of income in Canada or in any country in which the corporation is carrying on business, either alone or jointly with any other corporation incorporated in Canada or with any insurance company transacting the business of insurance in Canada, if,
 - (i) the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least 85 per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and
 - (ii) the total investment of a corporation in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the corporation,

and the corporation may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or

leasehold; but the book value of the investments of the corporation in real estate or leaseholds for the production of income and subject to subclause iv of clause *n* shall not exceed 5 per cent of the book value of the total assets of the corporation;

- (p) guaranteed investment certificates of a trust company incorporated in Canada, if, at the date of investment, the preferred shares or the common shares of the trust company are authorized as investments by clause *l* or *m*: 1970, c. 129, s. 41 (1).

guaranteed
investment
certificates
of trust
companies

(2) In addition to investments it may make by lending on the security of or by purchasing mortgages, charges or hypothecs upon real estate pursuant to the *National Housing Act, 1954* (Canada), or any predecessor thereof, a registered loan corporation may invest its funds to an aggregate amount not exceeding 5 per cent of its total assets in Canada allowed by the Registrar in any other classes or types of investments pursuant to the said Acts, including the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings. R.S.O. 1960, c. 222, s. 137 (2); 1970, c. 129, s. 41 (2), *amended*.

Investment
in national
housing
1953-54,
c. 23 (Can.)

(3) A registered loan corporation may lend money on the security of,

Loans on
securities
by loan
corporations

- (a) any of the securities mentioned in clauses *a, b, c, d, e* and *g* of subsection 1;
- (b) improved real estate or leaseholds in Ontario or elsewhere where the corporation is carrying on business, but the amount of the loan, together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the loan shall not exceed three-quarters of the value of the real estate or leasehold;
- (c) improved real estate or leaseholds in Ontario or elsewhere where the corporation is carrying on business, notwithstanding that the amount of the loan exceeds three-quarters of the value of the real estate or leasehold, if the loan is an approved loan or an insured loan under the *National Housing Act, 1954* (Canada);
- (d) mortgages, charges or hypothecs on improved real estate or leaseholds in Canada or in any country where the corporation is carrying on business, or bonds or notes secured by such mortgages, charges or hypothecs, notwithstanding that the amount secured by the mortgage, charge or hypothec exceeds the amount that the corporation is otherwise authorized to invest, if the

R.S.C. 1952,
cc. 31, 125
R.S.O. 1970,
c. 224

excess is guaranteed or insured by, or through an agency of, the government of the country in which the real estate or leasehold is situated or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada), *The Insurance Act* or similar legislation of any province or territory of Canada; and

- (e) the bonds, debentures, notes, shares or other securities mentioned in clause *f, h, i, j, k, l, m* or *p* of subsection 1, if the market value of the securities on which the loan is made at all times is not less than the amount of the loan and if also the amount loaned on the security of the shares of any one company does not at any time exceed 10 per cent of the market value of the total outstanding shares of such company.

Special
guaranteed
loans
1964-65,
c. 24 (Can.)
R.S.C. 1952,
c. 110
1955,
c. 46 (Can.)
1960-61,
c. 5 (Can.)

(4) If a registered loan corporation is designated a bank or lender, as the case may be, under the *Canada Student Loans Act*, the *Farm Improvement Loans Act* (Canada) or the *Fisheries Improvement Loans Act* (Canada) or the *Small Businesses Loans Act* (Canada), the corporation may make guaranteed loans under and in accordance with the provisions of any of those Acts for which it has been designated a bank or lender. 1970, c. 129, s. 41 (3).

"Basket
clause"
for loan
corporations

151. A registered loan corporation may make investments and loans not authorized by section 150 and not prohibited by any other section, subject to the following provisions,

- (a) investments in real estate or leaseholds under this section shall be made only for the production of income, and may be made by the corporation in Canada or in any country in which the corporation is carrying on business, either alone or jointly with any corporation incorporated in Canada or with any insurance company transacting the business of insurance in Canada, and the corporation may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total investment of a corporation under this section in any one parcel of real estate or in any one leasehold shall not exceed 1 per cent of the book value of the total assets of the corporation;
- (b) the total book value of the investments and loans made under this section and held by the corporation, excluding those that are, or at any time since acquisition have been, authorized as investments apart from this section, shall not exceed the larger of,

- (i) 15 per cent of the corporation's unimpaired capital and reserve, or
 - (ii) such percentage as the Registrar may approve, not in excess of 7 per cent, of the book value of the total assets of the corporation; and
- (c) this section shall be deemed not to,
- (i) enlarge the authority conferred by this Act to invest in mortgages, charges or hypothecs or to lend on the security of real estate or leaseholds, or
 - (ii) affect the operation of clause *e* of subsection 3 of section 150 as to the amount that may be loaned on the security of the shares of any one company. 1970, c. 129, s. 42, *part*.

152. Notwithstanding anything in section 150 or 157, a registered loan corporation may invest its funds in the fully paid shares of,

Power of
loan
corporations
to invest in
shares of
certain
companies

- (a) any company incorporated outside Canada to exercise the powers that a loan corporation incorporated in Ontario possesses;
- (b) any company incorporated to acquire, hold, maintain, improve, lease or manage real estate or leaseholds or to act as agent in the sale or purchase of real estate or leaseholds;
- (c) any company incorporated to offer public participation in an investment portfolio;
- (d) any company incorporated to provide a company mentioned in clause *c* with advisory, management or sales distribution services; or
- (e) with the prior approval of the Minister, any company incorporated to carry on any other business activity reasonably ancillary to the business of a loan corporation,

subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council. 1970, c. 129, s. 42, *part*.

153.—(1) A registered trust company may invest its own funds and moneys received for guaranteed investment or as deposits in any of the investments mentioned in subsection 1 of section 150, except that at all times at least 50 per cent of moneys received for guaranteed investment or as deposits shall be invested in or loaned upon such securities only as are authorized for trustees by section 26 of *The Trustee Act*.

Investments
by trust
companies

R.S.O. 1970,
c. 470

Restriction
on amounts
of
investment
in
real estate

(2) The total book value of the investments of a registered trust company in real estate or leaseholds for the production of income under clause *n* of subsection 1 of section 150 shall not exceed in the case of its own funds 10 per cent of the book value of the total assets of such funds and, in the case of moneys received for guaranteed investment or as deposits, 10 per cent of such moneys and under clause *o* of subsection 1 of section 150, shall not exceed in the case of its own funds 5 per cent of the book value of the total assets of such funds and, in the case of moneys received for guaranteed investment or as deposits, 5 per cent of such moneys or 25 per cent of the unimpaired capital and reserve of the company, whichever is the greater, but the total amount invested under clauses *n* and *o* shall not exceed the maximum amount provided in clause *n*; and the amount so invested in any one parcel of real estate or leaseholds for the production of income shall not exceed 2 per cent of the aggregate of the total assets of the corporation and the moneys received by it for guaranteed investment or as deposits.

Investments
in national
housing
1953-54,
c. 23 (Can.)

(3) In addition to investments it may make by lending on the security of or by purchasing mortgages, charges or hypothecs upon real estate under the *National Housing Act, 1954* (Canada) or any predecessor thereof, a registered trust company may invest its own funds to an aggregate amount not exceeding 5 per cent of its unimpaired capital and reserve and may, notwithstanding subsection 1, invest moneys received for guaranteed investment or as deposits to an aggregate amount not exceeding 5 per cent of such moneys in any other classes or types of investments pursuant to the said Act, including the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings.

Loans by
registered
trust
companies

(4) Subject to subsection 1, a registered trust company may lend its own funds and moneys received for guaranteed investment or as deposits on the security of,

- (a) any of the securities mentioned in clauses *a, b, c, d, e* and *g* of subsection 1 of section 150;
- (b) improved real estate or leaseholds in Ontario or elsewhere where the company is carrying on business, but the amount of the loan, together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the loan, shall not exceed three-quarters of the value of the real estate or leasehold;
- (c) improved real estate or leaseholds in Ontario or elsewhere where the company is carrying on business, notwithstanding that the amount of the loan exceeds three-quarters of the value of the real estate or leasehold, where the loan is an approved loan or an insured loan under the *National Housing Act, 1954* (Canada);

- (d) mortgages, charges or hypothecs on improved real estate or leaseholds in Canada or in any country where the company is carrying on business, or bonds or notes secured by such mortgages, charges or hypothecs, notwithstanding that the amount secured by the mortgage, charge or hypothec exceeds the amount that the company is otherwise authorized to invest, if the excess is guaranteed or insured by, or through an agency of, the government of the country in which the real estate or leasehold is situated or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada), *The Insurance Act* or similar legislation of any province or territory of Canada; and

R.S.C. 1952,
cc. 31, 125

R.S.O. 1970,
c. 224

- (e) the bonds, debentures, notes, shares or other securities mentioned in clause *f, h, i, j, k, l, m* or *p* of subsection 1 of section 150, if the market value of the securities on which the loan is made at all times is not less than the amount of the loan, and if the amount loaned on the security of the shares of any one company does not at any time exceed 10 per cent of the market value of the total outstanding shares of such company.

(5) If a registered trust company is designated a bank or lender, as the case may be, under the *Canada Student Loans Act*, the *Farm Improvement Loans Act* (Canada) or the *Fisheries Improvement Loans Act* (Canada), it may lend its own funds and moneys received for guaranteed investment or as deposits in guaranteed loans under and in accordance with the provisions of any of those Acts for which it has been designated a bank or lender. 1970, c. 129, s. 43.

Loans by
trust
companies
1964-65,
c. 24 (Can.)
R.S.C. 1952,
c. 110
1955,
c. 46 (Can.)

154. A registered trust company may, with respect to its own funds and with respect to moneys received for guaranteed investment or as deposits, make investments and loans not authorized by section 153 and not prohibited by any other section, subject to the following provisions,

"Basket
clause" for
registered
trust
companies

- (a) investments in real estate or leaseholds under this section shall be made only for the production of income, and may be made by the company in Canada or in any country in which the company is carrying on business, either alone or jointly with any corporation incorporated in Canada or with any insurance company transacting the business of insurance in Canada, and the company may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total investment of a company

under this section in any one parcel of real estate or in any one leasehold shall not exceed 1 per cent of the aggregate of the unimpaired capital and reserve of the company and the moneys held by it for guaranteed investment or as deposits;

- (b) the total book value of the investments and loans made under this section and held by the company, excluding those that are or at any time since acquisition have been authorized as investments apart from this section, shall not exceed the larger of,
 - (i) 15 per cent of the company's unimpaired capital and reserve, or
 - (ii) such percentage as the Registrar may approve, not in excess of 7 per cent, of the aggregate of the unimpaired capital and reserve of the company and the moneys held by it for guaranteed investment or as deposits; and
- (c) this section shall be deemed not to,
 - (i) enlarge the authority conferred by this Act to invest in mortgages, charges or hypothecs or to lend on the security of real estate or leaseholds, or
 - (ii) affect the operation of subsections 1 and 2 of section 153 or the operation of clause *e* of subsection 4 of section 153 as to the amount that may be loaned on the security of the shares of any one company. 1970, c. 129, s. 44, *part*.

Power of
registered
trust
companies
to invest
in shares
of certain
companies

155. Notwithstanding anything in section 153 or 157, a registered trust company may invest its own funds in the fully paid shares of,

- (a) any company incorporated outside Canada to exercise the powers set forth in section 84;
- (b) any company incorporated to acquire, hold, maintain, improve, lease or manage real estate or leaseholds or act as agent in the sale or purchase of real estate or leaseholds;
- (c) any company incorporated to offer public participation in an investment portfolio;
- (d) any company incorporated to provide a company mentioned in clause *c* with advisory, management or sales distribution services;
- (e) a loan corporation within the meaning of this Act; or
- (f) with the prior approval of the Minister, any company incorporated to carry on any other business activity reasonably ancillary to the business of a trust company,

subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council. 1970, c. 129, s. 44, *part*.

156.—(1) A corporation may take personal security as collateral for any advance or for any debt due to the corporation in addition to the security required by this Act. R.S.O. 1960, c. 222, s. 141 (1); 1966, c. 81, s. 12 (1).

Personal security as collateral

(2) The corporation may do all acts that are necessary for advancing sums of money, and for receiving and obtaining repayment thereof, and for compelling the payment of all interest accruing due thereon, and the observance and fulfilment of any conditions annexed to the advance, and for enforcing the forfeiture of any term or property consequent on the non-fulfilment of such conditions or, of conditions entered into for delay of payment. R.S.O. 1960, c. 222, s. 141 (2).

Power to do acts and to exercise remedies

(3) No director or other officer of a corporation and no member of a committee of a corporation shall accept or be the beneficiary of any consideration or benefit for or on account of the negotiation of any loan, deposit, purchase, sale, payment or exchange made by or on behalf of the corporation. 1966, c. 81, s. 12 (2).

Receipt by directors, etc., of consideration for negotiating loans, etc.

157.—(1) On and after the 14th day of April, 1925, no corporation shall,

Restrictions on amount of investments

(a) except as to securities issued or guaranteed by the Government of Canada or the government of any province of Canada or by any municipal corporation in Ontario,

- (i) subject to subclause iii, invest in any one security an amount exceeding 15 per cent of its own paid in capital stock and reserve funds, or
- (ii) make a total investment in any one bank or company or in companies that to the knowledge of the corporation are associated maturing in more than one year, including the purchase of its stock or other securities and the lending to it on the security of its debentures, mortgages or other assets or any part thereof, of an amount exceeding 15 per cent of its own paid in capital stock and reserve funds, or
- (iii) make an investment referred to in subclause ii maturing in one year or less in an amount that together with the amount invested to which subclause ii applies exceeds in the case of a registered loan corporation the aggregate of 20 per cent of its own paid in capital stock and reserve funds and $2\frac{1}{2}$ per cent of moneys borrowed on debentures and by way of deposit under section 78 and, in the case of a

registered trust company, the aggregate of 20 per cent of its own paid in capital stock and reserve funds and $2\frac{1}{2}$ per cent of moneys received as deposits and for guaranteed investment under sections 88 and 89;

- (b) make any investment the effect of which will be that the corporation will hold more than 20 per cent of the stock or more than 20 per cent of the debentures of any one corporation, company or bank. R.S.O. 1960, c. 222, s. 142 (1); 1966, c. 81, s. 13 (1, 2).

Trust
company

(2) In the case of a trust company, subsection 1 applies only to the investment of its funds and of moneys received for guaranteed investment or as deposits under sections 89 and 88.

Not to
apply to
certain
companies

(3) This section does not apply to an investment in the paid up capital stock of a trust company having its head office in Ontario if the investment has been authorized by the Lieutenant Governor in Council. R.S.O. 1960, c. 222, s. 142 (2, 3).

Interpreta-
tion

(4) For the purposes of this section,

- (a) one company is associated with another if,
- (i) one of the companies controls the other,
 - (ii) both of the companies are controlled by the same person or group of persons,
 - (iii) each of the companies is controlled by one person and the person who controls one of the companies is related to the person who controls the other, and one of those persons owns directly or indirectly one or more shares of the capital stock of each of the companies,
 - (iv) one of the companies is controlled by one person and that person is related to each member of a group of persons that controls the other company, and one of those persons owns directly or indirectly one or more shares of the capital stock of each of the companies, or
 - (v) each of the companies is controlled by a related group and each of the members of one of the related groups is related to all of the members of the other related group, and one of the members of one of the related groups owns directly or indirectly one or more shares of the capital stock of each of the companies; and
- (b) whether a person is related to another or whether a group of persons is a related group shall be determined in the same manner as set out section 1 of *The Corporations Tax Act*. 1966, c. 81, s. 13 (3).

158.—(1) The Lieutenant Governor in Council may authorize the acceptance by a corporation of bonds, notes, stocks, debentures or other assets not fulfilling the requirements of this Act,

Other investments authorized

- (a) obtained in payment or part payment for securities sold by the corporation; or
- (b) obtained under a *bona fide* arrangement for the reorganization of a company whose securities were previously owned by the corporation; or
- (c) obtained under an amalgamation with another company of the company whose securities were previously owned by the corporation; or
- (d) obtained for the *bona fide* purpose of protecting investments previously made by the corporation; or
- (e) obtained by virtue of the purchase by the corporation of the assets of another corporation,

but the bonds, notes, stocks or debentures or other assets whose acceptance is so authorized shall be sold and disposed of within five years after the acquisition thereof, or within such further time not exceeding one year as the Lieutenant Governor in Council, on report of the Minister, may fix and determine, unless it can be shown to the satisfaction of the Minister that the bonds, notes, stocks, debentures or other assets whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted.

(2) For the purpose of determining the eligibility as investments under this Act of the preferred or common stocks of a company that has been voluntarily reorganized without the impairment of the status or value of its securities, dividends paid on the preferred and common stocks of the company before the reorganization may be counted as dividends paid on such stocks respectively of the reorganized company. R.S.O. 1960, c. 222, s. 143.

Stocks of reorganized companies

159.—(1) A registered corporation may hold real estate which, having been mortgaged or hypothecated to it, has been acquired by it for the protection of its investment, and real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of such real estate, and may sell or otherwise dispose of, as it considers advisable, any mortgage or security that it has lawfully acquired. R.S.O. 1960, c. 222, s. 144 (1).

May hold certain estates and interests in land; and may dispose of same

(2) The corporation shall, subject to section 160, sell any real estate acquired by it under a mortgage, charge or hypothecation, or in satisfaction of a debt, within twelve years after it has been so

Limitation of time for holding

acquired, otherwise it may be forfeited to Her Majesty for the use of Ontario, but no such forfeiture shall be enforced until the expiration of six calendar months after notice in writing to the corporation of the intention of Her Majesty to claim such forfeiture. 1970, c. 129, s. 45.

Powers and rights of grantors and grantees

(3) The corporation may give receipts, acquittances and discharges, either absolutely and wholly or partially, and may grant or take such deeds, assignments or other instruments as are necessary for carrying any such holding, purchase, exchange or resale into effect, and the grantee or assignee in any such instrument stands in the place of, and is entitled to, and has all the same rights, powers and remedies, and is subject to the same obligations and liabilities as the grantor or assignor would have been entitled to or would have been subject to if the grant or assignment had not been made. R.S.O. 1960, c. 222, s. 144 (3).

Power to hold real estate for business

160.—(1) A registered corporation may hold to its own use and benefit such real estate as is necessary for the transaction of its business, or is acquired or held *bona fide* for building upon or improving for that purpose, and may sell, mortgage or dispose of such real estate. R.S.O. 1960, c. 222, s. 145.

Power to hold real estate on relocation of employee

(2) The corporation may acquire, hold, sell or dispose of real estate acquired in connection with the relocation by the corporation of the place of employment of an employee, if the real estate serves as the residence of the employee immediately after the relocation or served as the residence of the employee immediately before the relocation but the real estate shall not be allowed as an asset of the corporation in the annual report prepared by the Registrar for the Minister if it is held for more than two years following its acquisition. 1970, c. 129, s. 46.

Power to acquire larger building and to lease part or lease whole with lease back

161. A registered corporation, when so authorized by its letters patent or by the Lieutenant Governor in Council, may acquire or may construct, on any lands held pursuant to section 160, a building larger than is required for the transaction of its business and may lease any part of the building not so required or, subject to the approval of the Lieutenant Governor in Council, may lease the whole building with a lease back to the corporation of the part of the building required by the corporation for the transaction of its business. R.S.O. 1960, c. 222, s. 146; 1965, c. 61, s. 6.

Limit of amount of investments in buildings

162. A provincial corporation shall not make or undertake any investment under section 160 or 161 that will cause the total amount at which such investments are carried on its books to exceed 35 per cent of its unimpaired paid up capital, surplus and reserves. R.S.O. 1960, c. 222, s. 147; 1970, c. 129, s. 47.

163.—(1) A corporation shall not knowingly make an investment, Prohibited investments

- (a) by way of a loan to,
 - (i) a director or officer of the corporation or a spouse or child of such director or officer, or
 - (ii) an individual, his spouse or any of his children under twenty-one years of age if either the individual or a group consisting of the individual, his spouse and such children is a substantial shareholder of the corporation;
- (b) in a company that is a substantial shareholder of the corporation; or
- (c) in a company in which,
 - (i) an individual mentioned in subclause i of clause a,
 - (ii) an individual who is a substantial shareholder of the corporation,
 - (iii) another corporation that is a substantial shareholder of the corporation, or
 - (iv) a group consisting exclusively of individuals mentioned in subclause i of clause a,
 has a significant interest.

(2) The corporation shall not knowingly retain an investment mentioned in subsection 1. Disposition

(3) For the purpose of this section, Interpretation

- (a) a person has a significant interest in a company, or a group of persons has a significant interest in a company, if, significant interest
 - (i) in the case of a person, he owns beneficially, either directly or indirectly, more than 10 per cent, or
 - (ii) in the case of a group of persons, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent,
 of the shares of the company for the time being outstanding;
- (b) a person is a substantial shareholder of a corporation, or a group of persons is a substantial shareholder of a corporation, if that person or group of persons owns beneficially, either individually or together and either directly or indirectly, equity shares to which are attached more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding; and in computing the percentage of voting rights attached to equity shares owned by an underwriter, there shall be excluded the voting rights attached to equity shares acquired by him as an under- substantial shareholder

writer during the course of distribution to the public by him of such shares;

equity
share

- (c) "equity share" means a share of any class to which are attached voting rights exercisable under all circumstances and a share of any class to which are attached voting rights by reason of the occurrence of any contingency that has occurred and is continuing;

investment

- (d) "investment" means,
- (i) an investment in a company by way of purchase of bonds, debentures, notes or other evidences of indebtedness thereof or shares thereof, or
 - (ii) a loan to a person or persons, but does not include an advance or loan, whether secured or unsecured, that is made by a corporation to a company and that is merely ancillary to the main business of the corporation;

officer

- (e) "officer" means the president, vice-president, manager, secretary, assistant secretary, comptroller, treasurer and assistant treasurer of a corporation and any other person designated as an officer of the corporation by by-law or by resolution of the directors thereof.

"Down-
stream"
investment

(4) For the purposes of this section, where a person or a group of persons owns beneficially, directly or indirectly, shares of a company, that person or group of persons shall be deemed to own beneficially that proportion of the shares of any other company that is owned beneficially, directly or indirectly, by the first-mentioned company, that is equal to the proportion of the shares of the first-mentioned company that is owned beneficially, directly or indirectly, by that person or group of persons,

Exception

(5) Notwithstanding subsection 4, a corporation is not prohibited from making an investment in a company only because a person or a group of persons that owns beneficially, directly or indirectly, or is deemed to own beneficially, equity shares of the corporation is by reason thereof deemed to own beneficially equity shares of the company.

Exemption

(6) Where any person or group of persons is a substantial shareholder of a corporation and, as a consequence thereof and of the application of this section, certain investments are prohibited for the corporation, the Minister may, on the advice of the Registrar, and on application by the corporation, exempt from such prohibition any particular investment or investments of any particular class if he is satisfied,

- (a) that the decision of the corporation to make or hold any investment so exempted has not been and is not likely to be influenced in any significant way by that person or group, and does not involve in any significant way the

interests of that person or group apart from their interests as a shareholder of the corporation; and

- (b) that the investment is to be made under the power granted to the corporation by sections 150, 151, 153 and 154.

(7) Any exemption made by the Minister under subsection 6 Idem may contain any conditions or limitations considered by the Minister to be appropriate and may be revoked by the Minister at any time. 1970, c. 129, s. 48, *part*.

164.—(1) A provincial corporation shall at all times retain in Canada assets at least equal to its liabilities incurred in Canada and to the moneys for which it is accountable as a trustee in Canada. Assets in Canada

(2) The custody of securities registered in the name of or held by a provincial corporation is subject to such regulations respecting their safekeeping, including registration and the bonding of directors, officers and employees of the corporation, as the Lieutenant Governor in Council may prescribe. 1970, c. 129, s. 48, *part*. Safekeeping

165. The Registrar may request any corporation to dispose of and realize any of its investments that are not authorized by this Act, and it shall within sixty days after receiving the request dispose of and realize such investments, and if the amount realized therefrom falls below the amount paid by it for such investments, its directors are jointly and severally liable for the payment to it of the amount of the deficiency, but if any director present when any such investment is authorized, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such investment, and is able to do so, enters his written protest against such investment, and within eight days thereafter notifies the Registrar in writing of his protest, the director may thereby, but not otherwise, exonerate himself from liability. R.S.O. 1960, c. 222, s. 149. Corporation may be required to dispose of unauthorized investments

RETURNS

166.—(1) Every trust company receiving deposits or receiving funds for guaranteed investment shall make a return to the Registrar on or before the 31st day of January in each year drawn in accordance with the form prescribed by the Registrar, showing the amount of the funds and showing all securities, including loans on securities and cash, and money on deposit ear-marked and set aside as provided in subsection 2 of section 88 and subsection 3 of section 89 as such amounts stood on the 31st day of December next preceding, and stating that they were on such date so ear-marked and set aside. Annual return

Semi-annual
return

(2) Every trust company shall prepare a statement in the form prescribed by the Registrar as at the last day of June and of December in each year showing the changes in investments and loans of the company during the preceding half-year.

Quarterly
statement

(3) Every trust company shall prepare a statement in the form prescribed by the Registrar as at the last day of March, June, September and December in each year showing the amount of cash and securities required to be maintained under section 93 and the amount of deposits and of funds received for guaranteed investment coming due in less than 100 days.

Verification
of
statements

(4) The statements mentioned in subsections 2 and 3 shall be verified by a certificate of a responsible officer of the trust company and shall be filed with the Registrar within thirty-one days after the date as at which they are made up. 1970, c. 129, s. 49.

Quarterly
return
by loan
corporations
as to
deposits

167.—(1) Every loan corporation shall make a quarterly return in the form prescribed by the Registrar showing the amount of cash and securities required to be maintained under section 81 and the amount of deposits and of obligations of the corporation payable in less than 100 days as such amounts exist on the last days of March, June, September and December in each year, and the return shall be filed with the Registrar not later than one month after the expiration of the quarter to which it relates. 1966, c. 81, s. 16.

Semi-
annual
return

(2) Every loan corporation shall prepare a statement in the form prescribed by the Registrar as of the last day of June and of December in each year showing the changes in investments and loans of the corporation during the preceding half-year.

Verification

(3) The statements mentioned in subsections 1 and 2 shall be verified by a certificate of a responsible officer of the loan corporation and shall be filed with the Registrar within thirty-one days after the date as at which they are made up. 1970, c. 129, s. 50.

Annual
statement

168.—(1) The managing director, manager or secretary of each registered corporation shall prepare annually a statement in the form prescribed by the Registrar of the financial condition and affairs of the corporation for the year ending on the 31st day of December or on any date within the two months preceding the 31st day of December, and the statement shall be filed with the Registrar within two months after the end of the year to which it relates. 1966, c. 81, s. 17 (1).

Extra-
provincial
corporation

(2) In the case of an extra-provincial corporation, the Registrar may accept the statement required by subsection 1 as for the then last fiscal year of the corporation.

(3) The statement required by subsection 1 shall have attached a report by the auditor stating whether in his opinion the balance sheet contained in such statement presents fairly the financial position of the corporation and stating whether such other information as the Registrar prescribes contained in such statement is presented fairly and making such comments as he considers necessary,

Certificate of
auditor on
annual
statement

- (a) if the balance sheet is not in agreement with the accounting records;
- (b) if the balance sheet is not in accordance with the requirements of the Registrar;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination.

(4) Such annual statement shall also be proved by the affidavit of the president or vice-president and of the managing director, or some other principal officer of the corporation, and shall be accompanied by a certified copy of a resolution of the directors showing that such annual statement was adopted by them. R.S.O. 1960, c. 222, s. 152 (2-4).

Affidavit of
president,
etc.

(5) On sufficient cause shown and upon payment of the prescribed fee, the Registrar may by writing under his hand and seal of office, before or after the last day for filing the annual statement, extend the time for filing an annual statement. R.S.O. 1960, c. 222, s. 152 (6); 1966, c. 81, s. 17 (3).

Extending
time for
filing of
statement

(6) Any corporation that does not file its annual statement as required by this section, or make prompt and explicit answer to any inquiries then or at any time made by the Registrar touching its contracts, finances, stock, shares, securities, obligations, by-laws or books or, if required, produce for examination its books, records, securities, accounts and vouchers is liable to suspension, cancellation, or non-renewal of registry, and is liable to a penalty of \$50 for each day of default, but not exceeding in the whole \$1,000.

Penalty for
failure to
file
statement
or supply
information

(7) Where it is made to appear to the Registrar that an extra-provincial corporation does not borrow moneys in Ontario by the sale of its bonds, debentures or other securities or by accepting deposits or other moneys for investment and does not exercise in Ontario any of the powers of a trust company, other than the loaning of money in Ontario, the Registrar may direct that this section does not apply to the corporation, in which case it shall make such returns and give such information as the Registrar may require.

Extra-
provincial
corporations

Copy of
periodical
statements

(8) The corporation shall file with the statement a certified copy of any statement furnished to shareholders during the year then ended. R.S.O. 1960, c. 222, s. 152 (7-9).

MISCELLANEOUS

Exemption

169. Any amount, not exceeding \$300, standing to the credit of a depositor in a registered corporation is not, while in the hands of the corporation or while in course of transmission from the corporation, liable to demand, seizure or detention under legal process as against the depositor or his nominee, assignee or representative, or as against any person to whom the corporation is by sections 170 and 171 authorized to pay such amount. R.S.O. 1960, c. 222, s. 153.

Direction
as to
disposition
of deposits
or debentures
on
death

170.—(1) A person who,

- (a) has on deposit with a corporation a sum not exceeding \$600;
- (b) is the holder of debentures or guaranteed investment certificates issued by a corporation for a sum not exceeding \$600; or
- (c) has on deposit with a corporation a sum and holds debentures or guaranteed investment certificates issued by the corporation, the amounts of which in the aggregate do not exceed \$600,

may by a writing, signed by him and deposited with the corporation, nominate any person to receive the amount thereof at his death.

Rights of
corporation
R.S.O. 1970,
c. 449

(2) Subject to *The Succession Duty Act*, upon receiving an affidavit as to the death of a person who has made a nomination under subsection 1, the corporation may substitute on its books the name of the nominee in place of the name of such person or may forthwith pay to the nominee the amount due to such person. R.S.O. 1960, c. 222, s. 154.

Where no
direction

171. Subject to *The Succession Duty Act*, where a depositor, debenture holder or holder of a guaranteed investment certificate as described in clause *a*, *b* or *c* of subsection 1 of section 170 dies without making a nomination in accordance with that section, the deposit, debenture or guaranteed investment certificate may, without letters probate or letters of administration being taken out, be paid or transferred to the person who appears to the corporation to be entitled (under the will of such depositor, debenture holder or holder of a guaranteed investment certificate or in the case of an intestacy under the law relating to devolution of property) to receive it, upon receiving an affidavit of the death and that the person claiming is so entitled. R.S.O. 1960, c. 222, s. 155.

172. Where the corporation, after the death of a depositor, debenture holder or holder of a guaranteed investment certificate, has paid or transferred the desposit, debenture or guaranteed investment certificate to the person who at the time appeared to be entitled thereto, the payment or transfer is valid and effectual with respect to any demand from any other person as the legatee or next of kin or as the lawful representative of the deceased against the corporation, but the legatee, next of kin or representative is entitled to recover the amount of the deposit, debenture or guaranteed investment certificate from the recipient or transferee. R.S.O. 1960, c. 222, s. 156. Payments by mistake

173. Delivery of any written notice or document to a corporation for any purpose of this Act, where the mode is not otherwise expressly provided, may be by letter delivered at its head or chief office in Ontario or its chief agency therein, or sent by registered mail addressed to it, its manager or agent at such head or chief office or agency, or by delivering the notice personally to an authorized agent of the corporation. R.S.O. 1960, c. 222, s. 157. Service of notices

174. Except where Part VII of *The Corporations Act* is inconsistent with this Act, that Part applies to the winding up of corporations to which this Act applies, substituting the word "Registrar" for the word "Minister". R.S.O. 1960, c. 222, s. 158, *amended*. Winding up R.S.O. 1970, c. 89

OFFENCES AND PENALTIES

175. Every director, manager, auditor, officer, agent, collector, servant or employee of a corporation who refuses or neglects to make any proper entry in any book of record, entry or account of the corporation, or to exhibit the same, or to allow the same to be inspected or audited, either for the general purposes of the corporation or for the purposes of this Act, and extracts to be taken therefrom, is guilty of an offence. R.S.O. 1960, c. 222, s. 159. Refusal to make entries or exhibit same, etc.

176.—(1) Every person who makes any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of a corporation is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than five years. False statements

(2) Every president, vice-president, director, manager or other officer and every auditor of a corporation, who, Officers' liability

- (a) prepared, signed, approved or concurred in any such account, statement, return, report or document containing such false or deceptive statement; or
- (b) used the same with intent to deceive or mislead any person,

shall be held to have wilfully made such false or deceptive statement and, further, is responsible for all damages sustained by any person in consequence thereof. R.S.O. 1960, c. 222, s. 160.

General
penalty

177.—(1) For every contravention of this Act that is declared to be an offence and for which no other penalty is provided, the offender, on summary conviction, for the first offence, is liable to a fine of not less than \$20 and not more than \$200 and, for any subsequent offence of the same kind, is liable to imprisonment for a term of not less than three months and not more than twelve months or, in the case of an organization, society, association, company or corporation, to a fine of not more than \$1,000.

Limitations
of prose-
cutions

(2) The information shall be laid or made in writing within one year after the commission of the offence.

Disposition
of fines

(3) The fines under this Act belong to the Crown in right of Ontario. R.S.O. 1960, c. 222, s. 161.

FEES

Fees for
incor-
poration

178.—(1) The fees for letters patent of incorporation under this Act are those set out in Schedule A.

Other fees

(2) The fees set out in Schedule B are payable in respect of the matters therein mentioned.

Payment to
Registrar

(3) The fees are payable to the Registrar.

Commuta-
tion on
proposed
discontinu-
ance of
business

(4) Where a registered corporation proves to the satisfaction of the Registrar that it is discontinuing business in Ontario, and has given such public notice of intended discontinuance as is required, the fee for registry or renewal of registry, as the case may be, may, on the certificate of the Registrar, be commuted to one-fourth of the prescribed fee, but registry at such commuted fee shall not be granted for more than four years in all, unless for cause shown to the satisfaction of the Registrar, in which case registry may be granted year by year for an additional number of years.

Time of
payment

(5) In the case of an application or other document or instrument to be filed, examined or deposited, the fee shall be paid before the application or other document or instrument is dealt with, and, in the case of registry or certificates of registry, the fee shall be paid before the corporation is registered. R.S.O. 1960, c. 222, s. 162.

SCHEDULE A

(Section 178 (1))

Fees for Letters Patent of Incorporation:

For a corporation with an authorized capital stock of,	
(a) \$300,000 but less than \$500,000	\$300
(b) \$500,000 but less than \$1,000,000	400
(c) \$1,000,000	500
(d) exceeding \$1,000,000 but less than \$2,000,000	500
plus \$25 for every \$100,000 or fraction thereof in excess of \$1,000,000.	
(e) exceeding \$2,000,000	750
plus \$20 for every \$100,000 or fraction thereof in excess of \$2,000,000.	
For supplementary letters patent	100

R.S.O. 1960, c. 222, Sched. A.

SCHEDULE B

(Section 178 (2))

1. Application for initial registry (s. 133)	\$ 25
2. Extension of time not exceeding seven days, or any renewal thereof not exceeding seven days, for filing annual statement, application for renewal of registry, or any other documents or information required under the authority of this Act, except that the Registrar may grant relief from the payment of this fee in any case in which he thinks, for reasons appearing to him to be sufficient, that it should not be imposed	10
3. Filing power of attorney in case of corporations (s. 134)	5
4. Filing new power or change of attorney (s. 134)	5
5. Initial and annual renewal of registry (s. 135):	
(a) Where the assets of the corporation do not exceed \$500,000	200
(b) Where the assets of the corporation exceed \$500,000 but do not exceed \$1,000,000	250
(c) Where the assets of the corporation exceed \$1,000,000 but do not exceed \$5,000,000	300
(d) Where the assets of the corporation exceed \$5,000,000 but do not exceed \$10,000,000	400

(e) Where the assets of the corporation exceed \$10,000,000 but do not exceed \$20,000,000	\$ 450
(f) Where the assets of the corporation exceed \$20,000,000	500
For the purposes of this item, assets of a trust company shall be deemed to be the aggregate of assets held for company funds, guaranteed funds and assets held for administration under estates and trusts.	
6. Interim certificate of registry or extension of certificate (s. 135)	50
7. Revivor of registry after suspension (s. 135)	50
8. Change of corporate name (s. 136)	50
9. Change of head office (s. 136)	50
10. Filing annual statement (s. 168)	10
11. Filing new by-laws or amendments thereto after initial registry (s. 30)	5
12. Application for increase, decrease, conversion or alteration of capital stock of declaration or alteration of powers	25
(a) Order in council increasing capital stock (s. 65). A fee based on Schedule A, computed on the difference between the capital stock of the corporation before the order in council and the capital stock of the corporation after the order in council is issued, with a minimum fee of \$200.	
(b) Any other order in council (s. 65)	200
(c) Certificate of increase, decrease, conversion or alteration of capital stock or shares (s. 65)	10
(d) Supplementary letters patent	100
13. Application for increase in borrowing powers (s. 82)	25
(a) Order in council	
14. Copy of decision of Registrar, per folio of 100 words	1
Also for certificate of Registrar	2
15. Certified copy of entry on register or of certificate	2
16. Copies of or extracts from documents filed with Registrar, per folio of 100 words	1
Also for certificate of Registrar	2
17. Examining and passing upon applications or documents (ss. 106-114)	25
Order in council and certificate	200

18. Examining and passing upon applications or documents (s. 92) . . .	\$ 25
Order in council	200
19. Examining and passing upon applications or documents in connection with any matter not specifically referred to in this Schedule. .	25
Order in council	200

R.S.O. 1960, c. 222, Sched. B.



1. The first of these is the fact that the patient is not in a position to give a reliable history of his illness.

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21. The twenty-first is the fact that the patient is not in a position to give a reliable history of his illness.

22. The twenty-second is the fact that the patient is not in a position to give a reliable history of his illness.

CHAPTER 255

The Local Improvement Act

INTERPRETATION

- 1.** In this Act, Interpre-
tation
1. “Board” means the Ontario Municipal Board;
 2. “bridge” includes a viaduct, culvert, subway and embankment, and a pavement on a bridge;
 3. “clerk” means the clerk of the municipality and includes any officer or person authorized or required by the council to perform any duty that under this Act is to be or may be performed by the clerk;
 4. “constructing” and “construction” include reconstructing and reconstruction, wholly or in part, when the lifetime of the work has expired;
 5. “corporation” means the corporation of a municipality;
 6. “corporation’s portion of the cost” means that part or proportion of the cost of a work that is not to be specially assessed, but is payable by the corporation;
 7. “council” means the council of the corporation of a municipality;
 8. “county” includes a district;
 9. “court of revision” means a court of revision constituted under this Act;
 10. “curbing” includes a curbing of any material in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk, or with or without a projection for the purpose of a gutter;
 11. “engineer” includes an officer or person authorized or required by the council to perform any duty that under this Act is to be or may be performed by an engineer;
 12. “frontage”, when used in reference to a lot abutting directly on a work, means that side or limit of the lot that abuts directly on the work;
 13. “judge of the county court” means the judge or a junior judge of a county or district court;

R.S.O. 1970,
c. 32

14. "lifetime", as applied or applicable to a work, means the lifetime of the work as estimated by the engineer or, in case of an appeal, as finally determined by the court of revision or the judge, as the case may be;
15. "lot" means a subdivision or a parcel of land that by *The Assessment Act* is required to be separately assessed, and "lots" means more than one lot as so defined;
16. "municipality" includes a union of townships, a municipality composed of more than one township, a township, a city, a town and a village, but not a county;
17. "owner" and "owners" means respectively the person or persons appearing by the last revised assessment roll of the municipality to be the owner or owners of land, and, except in the case of a township, include a tenant for years, the unexpired term of whose tenancy including any renewal thereof to which he is entitled extends for not less than the period during which the special assessment for the work is to be made, if by the terms of his tenancy he would be liable for the payment of the special assessment for the work, but do not include a person who is, or is assessed as, owner where there is a tenant for years of the land who is an owner within the meaning of this clause;
18. "owners' portion of the cost" means that part or portion of the cost of a work that is to be specially assessed upon the land abutting directly on the work or upon land immediately benefited by the work;
19. "pavement" includes any description of pavement or roadway;
20. "paving" includes macadamizing, planking and the laying down or construction of any description of pavement or roadway and the construction of a curbing;
21. "published" means published in a daily or weekly newspaper which, in the opinion of the clerk, has such circulation within the municipality as to provide reasonable notice to those affected thereby, and "publication" has a corresponding meaning;
22. "sewer" includes a common sewer and a drain and two or more sewers connected as a system of sewers;
23. "sidewalk" includes a footway and a street crossing;
24. "specially assessed" means specially rated for or charged with part of the cost of a work;
25. "street" includes a lane, alley, park, square, public drive and public place, or a part of any of them;

26. "value" means the assessed value, exclusive of buildings, according to the last revised assessment roll of the municipality;
27. "watermain" includes two or more watermains connected in a system of waterworks and hydrants;
28. "work" means a work or service that may be undertaken as a local improvement;
29. "work undertaken" means a work that is undertaken as a local improvement. R.S.O. 1960, c. 223, s. 1; 1965, c. 62, s. 1; 1968-69, c. 63, s. 1.

WORKS THAT MAY BE UNDERTAKEN AS LOCAL
IMPROVEMENTS

2.—(1) A work of any of the characters or descriptions hereinafter mentioned may be undertaken by the council of a corporation as a local improvement:

Works
that may
be under-
taken as
local im-
provements

- (a) opening, widening, extending, grading, altering the grade of, diverting or improving a street;
- (b) opening or establishing a new street;
- (c) constructing a bridge as part of a street;
- (d) constructing, enlarging or extending a sewer, including a sewer on each side or on one side only of a street;
- (e) constructing, enlarging or extending a watermain, including a main on each side or on one side only of a street;
- (f) paving a street;
- (g) constructing a curbing, gutter or sidewalk in, upon or along a street;
- (h) constructing or maintaining a boulevard where a part of a street has been set apart for the purposes of a boulevard;
- (i) sodding any part of and planting, maintaining and caring for trees, shrubs and plants upon and in a street;
- (j) the extension of a system of water, gas, light, heat or power works owned by the corporation, including all such works as may be necessary for supplying water, gas, light, including street lighting, heat or power, to the owners of land, for whose benefit the extension is provided;
- (k) in a township where works have been constructed and erected for the supply of electrical power to owners, for constructing and erecting in connection with such works such further works, plant, appliances and equipment as may be necessary for street lighting;

- (l) acquiring, establishing, laying out and improving a park or square not having a greater area than two acres, or a public drive;
- (m) constructing retaining walls, dykes, breakwaters, groynes, cribs and other shore protection works along the banks of rivers, streams or creeks or along the shores of lakes;
- (n) constructing and erecting on any street or part of a street, equipment, plant and works for the purpose of supplying electric light or power, including standards and underground conduits and wires, to the extent to which the cost of the same exceeds the cost of the equipment, plant and works that would otherwise be provided at the expense of the corporation at large;
- (o) constructing a roadway or subway under a railway or other roadway;
- (p) subject to section 25, for resurfacing with asphalt or other suitable material a pavement having a foundation that in the opinion of the engineer is sufficient therefor, whether or not the lifetime of the pavement has expired, and, when any work undertaken under this clause is such as might entitle it to a provincial grant, the approval of the Department of Highways shall be first obtained with respect to the suitability of the foundation;
- (q) widening a pavement on a street;
- (r) constructing a retaining wall with or without a sidewalk or pavement on a street. R.S.O. 1960, c. 223, s. 2 (1); 1962-63, c. 75, s. 1.

Repair and
maintenance

- (2) Nothing in this section extends or applies to a work of ordinary repair or maintenance. R.S.O. 1960, c. 223, s. 2 (2).

Works
that may
be under-
taken in
connection
with a
pavement,
watermain
or sewer

3.—(1) Where the work is the construction of a pavement or watermain, the council, before proceeding with the work, may construct all works necessary for surface drainage in connection therewith and may make all necessary private drain connections from the main sewer to the street line on either or both sides, and may also lay all necessary water service pipes and stop cocks and make all necessary alterations in the same, and, where gas works are owned by the corporation, the council may lay all necessary gas mains, service pipes and stop cocks and make all necessary alterations in the same, and, where the work is the construction of a sewer, the council may make all necessary private branch drains and connections to the street line on either or both sides; but the cost of a water or gas service or stop cock and any alteration of the same and the cost of a private branch drain and connection shall

be specially assessed only upon the particular lot to serve which it was constructed or effected by an equal special rate per foot of the frontage of such lot.

(2) Where the work is the construction of a pavement, the council may from time to time during the progress of the work, upon the written request of the owner of the lot to be served, provide for the construction, as part of the pavement, of an approach of such width and character as the council may determine from the boundary line of the pavement to the street line, so as to form an approach to a particular lot, and the cost of such approach shall be specially assessed upon the particular lot so served. Construction of approach to lot

(3) The works mentioned in subsection 1 shall be deemed part of the work of construction of the pavement, sewer or watermain in all respects except as to the manner in which the cost of them is to be specially assessed as provided by that subsection. To be part of work of construction

(4) The amount to be assessed against each lot in respect of a private drain connection, water service pipe or gas service pipe shall be the cost thereof from the centre of the street to the street line, whether or not the sewer or water or gas main is laid in the centre of the street, but this subsection does not apply to private drain connections where a sewer is constructed on each side of a street. R.S.O. 1960, c. 223, s. 3. How to be assessed

4.—(1) Where a sewer, water main or gas main has been or is hereafter constructed, the council, by a vote of two-thirds of all the members thereof at any general or special meeting, may undertake the construction of private drain connections, water service pipes or gas service pipes from the sewer, water main or gas main to the street line on either or both sides as a local improvement without any petition therefor, and the cost of each private drain connection, water service pipe or gas service pipe shall be specially assessed upon the particular lot for or in connection with which it is constructed by an equal special rate per foot of the frontage of the lot, and the owners of the land do not have the right of petition provided for by section 12, and the provisions of subsection 4 of section 3 apply. Construction of private drain connections without petition

(2) Where a private drain connection, gas or water service pipe has been constructed by a municipality at the request of the owner of land and the council has not proceeded under subsection 1, the amount due may be inserted in the collector's roll and be collected in the same manner as taxes. R.S.O. 1960, c. 223, s. 4. At request of owner

5. In a township, town or village in unorganized territory, where the owners of land have constructed a work that might have been undertaken as a local improvement, the council, upon the petition of three-fourths in number of the owners of the land to be immediately benefited by the acquisition of the work, Purchase by township of works already constructed

R.S.O. 1970,
c. 284

representing at least two-thirds of the value of such land, may acquire the work at a price agreed upon or to be determined by arbitration under *The Municipal Act*, and the purchase money may be provided by the council and may be assessed in like manner as if the work were a work that the council were undertaking as a local improvement, and all the provisions of this Act apply as if the council were undertaking the work so acquired as a local improvement. R.S.O. 1960, c. 223, s. 5.

Approval of
Board
required in
the case of
certain
works

6.—(1) Where the work is the opening, widening or extension of a street or the construction of a bridge, and the cost of the work as estimated by the engineer will exceed \$50,000, any person whose land is to be specially assessed may, within ten days after notice to him of the intention of the council to undertake the work, give notice that he objects to the work being undertaken upon the ground that it is a work for the general benefit of the municipality or of a section or district thereof, and, if such notice is given, the work shall not be undertaken without the approval of the Board.

Approval
may be
withheld

(2) If the Board, after notice to the corporation and to all persons interested and after hearing such of them as request to be heard, determines that for the reasons mentioned in subsection 1, or either of them, it is proper to do so, the Board may withhold its approval.

Apportion-
ment of cost
of work

(3) If the Board determines that the cost of the work should be borne by the corporation or by the owners of the land situate within a section or district of the municipality, the Board may make an order so declaring, and in that event the council may, notwithstanding the provisions of this Act or of any by-law passed under the authority of this Act, undertake and proceed with the work at the cost of the corporation or of the section or district thereof mentioned in the order, as the case may be.

Cost may
be charged
upon
abutting
lots

(4) The Board, instead of making an order under subsection 3, may direct that, if the work is undertaken, such part of the cost of it as the Board may consider just shall be charged upon the lots abutting directly upon the work, in accordance with the provisions of this Act, and that the residue of it shall be borne by the corporation or partly by the corporation and partly by a section or district of the municipality in such proportions as the Board may direct, and, if the council undertakes the work, it shall conform with the directions of the order.

Special
assessments
by council

(5) The special assessment upon the lots shall not be made by the Board, but by the council, in accordance with this Act. R.S.O. 1960, c. 223, s. 6.

PROCEDURE FOR UNDERTAKING WORK

7.—(1) A by-law may be passed for undertaking a work as a local improvement, Methods of undertaking works

- (a) on petition;
- (b) without petition, on the initiative of the council, hereinafter called the initiative plan, except in the case of a park or square or public drive mentioned in clause 1 of subsection 1 of section 2;
- (c) on sanitary grounds, as mentioned in section 9; or
- (d) without petition in the cases mentioned in sections 4 and 8.

(2) Instead of passing separate by-laws for each work, the council may pass one by-law in respect of several works. R.S.O. 1960, c. 223, s. 7. One by-law may include several works

8.—(1) Where the council determines and, by by-law or resolution passed at any meeting by a vote of two-thirds of all the members thereof, declares it is desirable that the construction of a curbing, pavement, sidewalk, sewer, watermain or bridge, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street, or the widening of a pavement, or the extension of a system of water works, or of private drain connections or water service pipes under section 4, should be undertaken as a local improvement, the council may, with the approval of the Board, pass a by-law to undertake the work. Local improvements with approval of Board

(2) Where the undertaking of the work is approved by the Board, no petition required by section 11 is necessary and the owners do not have the right of petition provided by section 12. R.S.O. 1960, c. 223, s. 8 (1, 2). Petition not requisite

(3) Where it is intended to proceed under this section, the council shall not be deemed to proceed on the initiative plan but there shall be published at least once a week for two weeks a notice of intention in Form 2 to apply to the Board for approval of the work being undertaken and any owner may within twenty-one days after the first publication of such notice file with the clerk his objection to the work being undertaken. R.S.O. 1960, c. 223, s. 8 (3); 1961-62, c. 75, s. 1 (1). Notice of application to Board

(4) Instead of publishing a notice as provided in subsection 3, the notice in Form 2 may be sent by prepaid mail to every owner appearing by the last revised assessment roll to be the owner of property that will abut on the work and by publication at least once of the notice in Form 2, and any owner may, within twenty-one days after the publication or mailing of the notice, whichever is the later, file with the clerk his objection to the work being undertaken. 1962-63, c. 75, s. 2. Mailing of notice

Further
notices

(5) The Board may direct such further or other notice or notices in Form 2 or otherwise, to be given by the council, and the Board may make such order with respect to the work as may seem proper.

Work not
to proceed
until
approval
given

(6) The work shall not be undertaken until the approval of the Board to the passing of the by-law therefor has been obtained.

What notice
may
include

(7) The notice in Form 2 when published may relate to and include any number of different works. R.S.O. 1960, c. 223, s. 8 (4-6).

By-law not
to be in
contraven-
tion of
subs. 1

(8) The passing of a by-law to authorize the undertaking of a work under subsection 1 shall not be deemed to be in contravention of subsection 1 if such by-law contains a provision that the by-law shall not take effect until approved by the Board. 1961-62, c. 75, s. 1 (2).

Construc-
tion of
sewer on
recom-
mendation
of health
authority

9. Where the council, upon the recommendation of the Minister of Health or of the local board of health of the municipality, determines and, by by-law passed at a regular or special meeting of the council by vote of two-thirds of all the members thereof, declares that the construction, enlargement or extension of a sewer or watermain or of private drain connections or water service pipes under section 4 as a local improvement is necessary or desirable in the public interest on sanitary grounds, the council may undertake the work without petition, and the owners of the land do not have the right of petition provided for by section 12. R.S.O. 1960, c. 223, s. 9.

Notice of
intention

10.—(1) Where it is intended to proceed under section 9, the council shall not be deemed to proceed on the initiative plan, but, before passing the by-law for undertaking the work, shall cause notice of its intention in Form 1 to be published, and such notice may relate to and include any number of different works.

Objection
to con-
struction

(2) Where the council proceeds with any local improvement under subsection 1, a majority of the owners representing at least one-half the value of the lots that are to be specially assessed therefor, being dissatisfied with the local improvement or with the manner in which it has been undertaken, may apply by petition to the Board for relief, and the Board may thereupon investigate the complaint and make such order with respect to the local improvement as may seem proper, and, after notice to the clerk of the municipality of the application and pending its determination by the Board, the council shall not proceed with the local improvement work.

Sufficiency
of petition

(3) The sufficiency of the petition shall be determined in the manner provided by section 15.

(4) The petition shall be deposited with the secretary of the Board within twenty-one days after the publication of notice of the council's intention to undertake the work.

Filing of
petition

(5) The by-law for undertaking the work shall not be passed until the expiry of such twenty-one days. R.S.O. 1960, c. 223, s. 10.

Time for
passing
by-law

11. The petition for a work shall be signed by at least two-thirds in number of the owners representing at least one-half of the value of the lots liable to be specially assessed, provided that, where a petition proposes that any lot be totally exempted from special assessment under section 30, such lot and the owner thereof shall be excluded from computation in ascertaining whether the petition is sufficiently signed. R.S.O. 1960, c. 223, s. 11.

Number of
signatures
to petition
required

12.—(1) Where the council proceeds on the initiative plan, notice of the intention of the council to undertake the work in Form 3 shall be given by publication of the notice and by service of it upon the owners of the lots liable to be specially assessed, and, unless within one month after the first publication of the notice a majority of the owners, representing at least one-half of the value of the lots that are liable to be specially assessed, petition the council not to proceed with it, the work may be undertaken as a local improvement.

Notice of
intention
under
initiative
plan

(2) The notice is sufficient if it designates by a general description the work to be undertaken and the street or place whereon or wherein, and the points between which, the work is to be done, and the number of the instalments by which the special assessment is to be payable.

Contents
of notice

(3) The notice may relate to and include any number of different works.

May cover
different
works

(4) The notice may be served upon the owner,

Manner of
service

- (a) personally; or
- (b) by leaving it at his place of business or of residence, if within the municipality; or
- (c) by mailing it addressed to the owner at his actual place of business or of residence, if known, or at his place of business or residence as set forth in the last revised assessment roll of the municipality; or
- (d) if the place of business and of residence of the owner are not known, by leaving it with a grown-up person on the lot of the owner that is liable to be specially assessed, if there is a grown-up person residing thereon.

(5) If the place of business and of residence of the owner are unknown, and there is no grown-up person residing on the lot of the owner that is liable to be specially assessed, service upon the owner is not requisite.

Where
residence,
etc.,
unknown

Proof of
publication
and service

(6) Publication and service of the notice may be proved by affidavit or statutory declaration which, before the passing of the by-law by which the special assessment is made to defray the cost of the work, is *prima facie* evidence and, after the passing of the by-law is conclusive evidence of the matters set forth therein. R.S.O. 1960, c. 223, s. 12.

Effect of
petition
against
work

13.—(1) Where the council has proceeded on the initiative plan and has been prevented from undertaking a work by reason of a petition having been presented under section 12, the council shall not proceed on the initiative plan with regard to the same work for a period of two years after the presentation of the petition; provided that, in a municipality in which a by-law passed under section 70 is in force, the prohibition contained in this section does not prevent the council from again proceeding on the initiative plan with regard to such work if it is of a different kind or description from or less expensive than that originally proposed to be undertaken.

Powers
conferred by
section 8
not affected

(2) Nothing in this section prevents the council from exercising the power conferred by section 8. R.S.O. 1960, c. 223, s. 13.

Lot of
petitioner
to be
described

14. There shall be set out opposite to every signature to the petition for or against a work a description of the lot of which the petitioner is the owner by its number or such other description as will enable the clerk to identify it. R.S.O. 1960, c. 223, s. 14.

Clerk to
determine
sufficiency
of petition

15.—(1) The sufficiency of a petition for or against a work shall be determined by the clerk, and his determination shall be evidenced by his certificate and when so evidenced is final and conclusive.

What
owners to
be counted

(2) Where the sufficiency of a petition has been determined by the clerk, it shall be deemed to have been and to be a sufficient petition notwithstanding that changes may be made by the court of revision or by the judge in the lots to be specially assessed that have the effect of increasing or reducing the number of the lots.

Determining
value of
lots

(3) When it is necessary to determine the value of any lot and the value cannot be ascertained from the proper assessment roll by reason of the lot not having been separately assessed, or for any other reason, the clerk shall fix and determine the value of the lot and the value thereof as so fixed and determined shall be deemed for the purpose of this Act to be the assessed value thereof, and his determination is final and conclusive.

Owner
whose name
is not on
roll may
petition

(4) Where a person who is, but does not appear by the last revised assessment roll of the municipality to be, the owner of land is a petitioner, he shall be deemed an owner if his ownership is proved to the satisfaction of the clerk, and, if the person who appears by the assessment roll to be the owner is a petitioner, his

name shall be disregarded in determining the sufficiency of the petition.

(5) Where two or more persons are jointly assessed for a lot, in determining the sufficiency of a petition,

Case of joint owners

- (a) they shall be reckoned as one owner only;
- (b) they shall not be entitled to petition unless a majority of them concur and the signatures of any of them, unless the petition is signed by the majority, shall be disregarded in determining the sufficiency of the petition.

(6) The clerk, for the purpose of any inquiry pending before him under this section, may cause witnesses to be summoned and to be examined upon oath, and any person interested in the inquiry may, for the purpose of procuring the attendance of a witness, cause a subpoena to be issued out of the county court of the county in which the municipality lies.

Witnesses

(7) A witness, if a resident of the municipality, is bound to attend without payment of any fees or conduct money and, if not a resident of the municipality, is entitled to fees and conduct money according to the county court scale.

Witness fees

(8) Where any person complains to the clerk that his signature to the petition was obtained by fraud, misrepresentation or duress, the complaint shall be investigated and determined by a judge of the county court, and the clerk shall delay certifying until he has received the finding or report of the judge upon the complaint, and in determining as to the sufficiency of the petition the clerk shall give effect to such finding or report. R.S.O. 1960, c. 223, s. 15.

Complaints to be investigated by county judge

16. A petition for or against the undertaking of a work shall be lodged with the clerk and shall be deemed to be presented to the council when it is so lodged. R.S.O. 1960, c. 223, s. 16.

Petitions to be lodged with clerk

17. No person has the right to withdraw his name from, and no name shall be added to, a petition after the clerk has certified as to its sufficiency. R.S.O. 1960, c. 223, s. 17.

Withdrawal of name from petition

18. Where a by-law has been heretofore or is hereafter passed for undertaking any work as a local improvement and the council deems it inadvisable or impracticable to complete the work, the council may, by by-law, amend such by-law and provide for the carrying out of part only of the work mentioned therein or for the substitution in whole or in part of another kind or character of work of the same class as that undertaken in such by-law, but all the provisions of this Act apply to such partial work as if it had been originally undertaken as one entire work or to such substituted work as if it had been the work originally undertaken, but the amending by-law takes effect only on being approved by the Board. R.S.O. 1960, c. 223, s. 18.

Power to undertake part of work only

Amend-
ments to
by-laws
respecting
highways

19. After passing a by-law for establishing, extending, widening or diverting a highway, and before completion of the work, the council may apply to the Board for leave to pass an amending by-law providing for a deviation in the course or location of the highway as defined in the original by-law, and the Board may make an order approving of and validating an amending by-law accordingly on such terms and conditions and after such hearing as it may consider proper, and subject to the terms of the order the provisions of this Act apply to such altered work as if it had been provided for in the original by-law. R.S.O. 1960, c. 223, s. 19.

HOW COST OF WORK TO BE BORNE

Frontage
rate

20.—(1) Except as otherwise expressly provided in this Act, the entire cost of a work undertaken shall be specially assessed upon the lots abutting directly on the work, according to the extent of their respective frontages thereon, by an equal special rate per foot of such frontage sufficient to defray such cost.

Items that
may be
included
in cost

(2) The following may be included in the cost of the work:

- (a) engineering expenses;
- (b) cost of advertising and service of notices;
- (c) interest on temporary loans;
- (d) compensation for lands taken for the purposes of the work or injuriously affected by it and the expenses incurred by the corporation in connection with determining such compensation;
- (e) the estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them.

Case of
widening
pavement

(3) Where the work is the widening of a pavement on a street, the lots on each side of the street shall be deemed to abut directly on the work. R.S.O. 1960, c. 223, s. 20 (1-3).

Construc-
tion of sewer
or water-
main

(4) Where the work is the constructing, enlarging or extending of a sewer or watermain, including a sewer or watermain on each side or one side only of a street, the council may make a reduction in the special assessment of corner lots that would otherwise be chargeable thereon by deducting from the total frontage of a corner lot liable to special assessment the number of feet abutting on the work on the side of the lot or such part thereof as the council may determine. R.S.O. 1960, c. 223, s. 20 (4); 1960-61, c. 49, s. 1.

Deduction
of contribu-
tions from
cost

21.—(1) Where a municipality receives a contribution in cash to be applied towards the cost of any work, the amount of the contribution shall be deducted from the total cost of the work and the balance shall for all purposes be deemed the actual cost of the work.

(2) If the contribution is by way of an annuity, it shall be capitalized and the capitalized value shall be deducted as aforesaid, but the municipality shall nevertheless borrow the full amount of the cost of the work and shall specially assess against the owners of lots their share of the cost ascertained after making the deduction as aforesaid, and the balance of the total cost shall be the corporation's portion of the cost, and the annuity shall be applied in reduction of the annual rate levied to meet the corporation's portion of the cost.

Contribution by way of annuity, how treated

(3) Notwithstanding subsections 1 and 2, where a contribution is to be applied towards any excess cost of a work caused by reason of the work being constructed with a greater capacity than is required for the purposes of the lots abutting on the work, the amount of the contribution shall be applied to reduce the corporation's portion of the cost. R.S.O. 1960, c. 223, s. 21.

Contributions for excess cost of work

22.—(1) Where a contractor is employed to construct a pavement or sidewalk, and the council has required him to guarantee that he will so construct it that it shall, for a period not exceeding ten years, remain in good condition and suitable for safe and comfortable travel and that he will, when required, make good any imperfections therein due to materials, workmanship or construction, in ascertaining the cost of the work no deduction shall be made from the sum paid to the contractor by reason of such guarantee having been required.

Guarantee of work

(2) In all municipalities, where such guarantee is required, where any local improvement is undertaken by the corporation and constructed by day labour, the corporation may assess as part of the cost thereof a reasonable allowance to make good any imperfection therein due to materials, workmanship or construction during the lifetime thereof as fixed by the court of revision, the amount of such allowance to be subject to revision by the court of revision. R.S.O. 1960, c. 223, s. 22.

Assessment of allowance to make good imperfections

23. There shall be included in the corporation's portion of the cost,

Corporation's portion of cost

- (a) at least one-third of the cost of a sewer having a sectional area of more than four feet; and
- (b) the entire cost of all hydrants constructed in connection with a watermain and the entire cost of all culverts, catch basins and other works that are provided for surface drainage and that are incidental to the construction of the sewer or pavement; and
- (c) so much of the cost of a work as is incurred at street intersections. R.S.O. 1960, c. 223, s. 23.

Apportionment of cost of sewers

24.—(1) Where the work is the construction of a sewer or watermain, the council may in the by-law for undertaking the work, passed by a vote of three-fourths of all the members, provide that a certain sum per foot frontage shall be specially assessed upon the land abutting directly on the work and that the remainder of the cost of such sewer or watermain shall be borne by the corporation.

Part to be borne by corporation

(2) The part of the cost to be borne by the corporation shall not be less than that which, under section 23, is to be included in the corporation's portion of the cost. R.S.O. 1960, c. 223, s. 24.

Assumption by corporation of special assessments in certain cases

25. Where the work undertaken is the resurfacing of a pavement as provided by clause *p* of subsection 1 of section 2, the corporation shall assume and pay the special assessments therefor charged against the lots fronting or abutting on the work until the expiration of the period within which such lots are specially assessed for the then existing pavement. R.S.O. 1960, c. 223, s. 25.

Widening costs in certain cases

26. Where the work to be undertaken is the widening of a pavement on a street without a petition, the by-law for undertaking the work shall provide that, in addition to the corporation's portion of the cost including the portions otherwise provided for in this Act, there shall also be included in such portion so much of the cost of the work as is incurred in the construction or reconstruction of the pavement to a width greater than the width of the pavement then existing on the street. R.S.O. 1960, c. 223, s. 26.

Corporation may assume part of cost of sidewalk or pavement

27.—(1) Subject to subsection 3, the council of the corporation of a municipality in which there is not in force a by-law passed under section 70 applicable to the work may, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council, provide that such part as to the council seems proper of the cost of every granolithic, stone, cement, asphalt or brick sidewalk, or of every pavement or curbing or of works, plant, appliances and equipment for street lighting constructed as a local improvement that otherwise would be chargeable upon the land abutting directly on the work, shall be paid by the corporation.

Repeal of by-law

(2) Such by-law shall not be repealed except by a vote of three-fourths of all the members of the council.

Assumption of larger share of certain named work

(3) The council, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the council and approved by the Board, may provide that the corporation shall assume a larger share of the cost of a certain named work undertaken on a certain named street than is provided in the by-law passed under subsection 1, with reference

to works of the same class, or, where no by-law has been passed under subsection 1, that the corporation shall assume a stated part of the owners' portion of the cost of any certain named work of any one of the classes set out in subsection 1. R.S.O. 1960, c. 223, s. 27.

28.—(1) A reduction in the case of corner lots at the junction or intersection of streets and a reduction or increase in the case of triangular or irregularly-shaped lots shall be made in the special assessment, that otherwise would be chargeable thereon, sufficient, having regard to the situation, value and superficial area of such lots as compared with the other lots, to adjust the assessment on a fair and equitable basis. 1960-61, c. 49, s. 2.

Special
assessment
of corner
and
irregularly-
shaped lots

(2) Where a lot is for any reason wholly or in part unfit for building purposes, a reduction shall also be made in the special assessment that otherwise would be chargeable thereon sufficient to adjust its assessment as compared with that of the lots fit for building purposes on a fair and equitable basis.

of lots
unfit for
building
purposes

(3) Subject to section 30, where a lot, other than a corner lot, has two limits that abut on works and the size or nature of the lot is such that any or all of the works are not required, a reduction in respect of the works that are not required, so long as they are not required, shall also be made in the special assessment that would otherwise be chargeable thereon, sufficient to adjust its assessment on a fair and equitable basis.

of lots
with two
limits
abutting
on works

(4) The reduction shall be made by deducting from the total frontage of the lot liable to the special assessment so much thereof as is sufficient to make the proper reduction, but the whole of the lot shall be charged with the special assessment as so reduced.

How
reduction
to be made

(5) The amount of any reduction made in the assessment of any lot under the provisions of this section is not chargeable upon the lots liable to be specially assessed, but shall be paid by the corporation. R.S.O. 1960, c. 223, s. 28 (2-5).

Reduction
to be
borne by
corporation

29.—(1) Where a local improvement is carried out and an exemption is made of flankage of a lot which flankage later becomes a frontage on the work that has been carried out, the corporation may impose a special assessment of such amount as would have been assessed against such flankage had it been frontage at the time of the passing of the by-law.

Special
assessment
on flankage
that
becomes
frontage

(2) Notice of such assessment shall be given by registered mail addressed to the then registered owner of such flankage.

Notice of
assessment

(3) Any person complaining that the amount of flankage in respect of which the assessment is imposed is incorrect may do so in writing delivered to the clerk of the municipality within ten days of the mailing of the notice under subsection 2, and the clerk

Appeal

of the municipality shall forthwith transmit the same to the court of revision and give to the complainant written notice of the time and place of the hearing of the complaint posted six days prior to the date set therefor, and the court of revision shall consider the complaint and its decision thereon is final and binding. R.S.O. 1960, c. 223, s. 29.

When due
and payable

(4) Where such assessment is so imposed, it is due and payable in equal annual instalments commencing the year when the flankage becomes the frontage on the work, and for such term of years as charges were imposed by the by-law.

Period in
which
charges
payable

(5) The annual assessments imposed or collected under this section shall be limited to those that would fall due during the period of the currency of the debentures issued for such work and five years thereafter and, when collected, shall be credited to the general funds of the corporation. R.S.O. 1960, c. 223, s. 29 (4, 5).

Assessment
for opening
lane

30.—(1) Where the work is the opening, widening, extension, grading or paving of a lane or the construction of a sewer for drainage purposes in a lane, and the council is of opinion that any lot abutting on the work is not benefited by the work, or is not benefited thereby to the same extent as other abutting lots, the council may, in the by-law for undertaking the work, exempt such lot or make a reduction in the special assessment that would otherwise be chargeable thereon by deducting from the total frontage of the lot liable to special assessment so much thereof as is sufficient to make the proper reduction.

Assessment
of cost of
work in
such case

(2) Where such lot is exempted, the amount of the special assessment that would otherwise be chargeable thereon shall be specially assessed against all the other abutting lots and, where a reduction is made, the entire cost of the work shall be specially assessed as if it were the cost with respect to the reduced frontage, but the whole of the lot granted the reduction shall be charged with the special assessment as so reduced.

Board's
approval

(3) None of the works mentioned in subsection 1 shall be proceeded with until the by-law for undertaking the work is approved by the Board. R.S.O. 1960, c. 223, s. 30.

Assessment
of cost of
certain
works

31.—(1) Subject to subsection 2, where the work undertaken is a sidewalk or curbing or a sewer or watermain constructed on one side of a street to serve only the lots on that side, only the land abutting on that side of the street upon which the work is constructed shall be specially assessed.

Assessment
of cost of
sidewalks
on petition

(2) On petition, sufficiently signed, of the owners on both sides of a street praying that a sidewalk be constructed on one side only of the street and that a certain portion not exceeding one-third of the owners' share of the cost be assessed on the lots fronting or

abutting on the other side of the street, the council may specially assess the lands on the other side of the street in conformity with the petition and, if a sidewalk is thereafter constructed on the other side of the street, the owners' portion of the cost shall be specially assessed in like manner. R.S.O. 1960, c. 223, s. 31.

32.—(1) Where the work is the acquisition, establishment, laying out and improving of a park or square or the construction of a bridge or the construction of a sewer or watermain of a larger capacity than is required for the purpose of the abutting land, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street or the construction of any work mentioned in clause *m* or *r* of subsection 1 of section 2, and the council is of opinion that for any reason it would be inequitable to charge the cost of the work on the land abutting directly thereon, the council may, in the by-law for undertaking the work passed by a vote of three-fourths of all the members, provide for the payment by the corporation of such part of the cost as to the council may seem just, and so much of the residue thereof as may seem just may be specially assessed upon the land abutting directly on the work, and so much of such residue as may seem just on such other land as is immediately benefited by the work.

Apportionment of cost of a bridge, the opening of a street, etc.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed thereon in the manner provided by section 20, and that part of the cost for which land not abutting directly on the work is to be specially assessed shall be assessed thereon in the manner provided by sections 37 and 38. R.S.O. 1960, c. 223, s. 32.

Method of assessment

33. Where the land abutting directly on any work undertaken as a local improvement is a right of way for a railway or for the transmission of electrical power, the council may exercise the powers conferred by subsection 1 of section 32 with respect to that part of the cost that would otherwise be specially assessed against such right of way. R.S.O. 1960, c. 223, s. 33.

Assessment of right of way of railway, etc.

34. Where the work is the construction of a sewer and it is necessary to construct an outlet for the sewage, and the lands fronting or abutting on or through which the outlet is constructed are not benefited or served thereby, the cost of the outlet shall be deemed to be a part of the cost of the sewer and shall not be specially assessed against the lands fronting or abutting on the outlet or through which the outlet is constructed. R.S.O. 1960, c. 223, s. 34.

Assessment of cost of outlet for sewage

35. Where the work is the construction of a sewer that is an outlet for sewage from lands not abutting directly upon the work or is the installation and construction of sewage pumping works,

Assessment of cost of outlet or pumping works

force mains, siphons and other pumping facilities necessary for a sewer or sewer system in carrying away sewage from lands not abutting directly upon the works, the council may, in the by-law for undertaking the work passed by a vote of three-fourths of all the members, provide for the payment by the corporation of such part of the cost of the work as to the council may seem just, and that the residue thereof shall be specially assessed on the lands not abutting on the work but immediately benefited thereby in the manner provided by sections 37 and 38. R.S.O. 1960, c. 223, s. 35.

Compensation by reducing assessment

36.—(1) Where the work of acquiring, establishing, opening, widening, extending or diverting a street involves the taking of a portion of a lot abutting on the work, or of one or more of a number of lots or contiguous lots owned by the same person, the council may agree with the owner that, in consideration of the dedication or gift of the land required to be taken or a release of or reduction in the owner's claim for compensation, the remainder of his lot or his remaining lots, as the case may be, shall be charged with no part or a specified portion or proportion only of the special assessment that would otherwise be chargeable thereon in respect of the cost of the work, and the special assessment roll shall be prepared in conformity with such agreement notwithstanding anything to the contrary in this Act.

Appeal

(2) An appeal lies to the court of revision and to the county judge from the action of the council in like manner as an appeal lies under the provisions of this Act with regard to the cost of a work undertaken. R.S.O. 1960, c. 223, s. 36.

Assessment of non-abutting land equally benefited

37. Where land not abutting directly upon a work is to be specially assessed, if the whole of it is equally benefited, the portion of the cost to be borne by such land shall be specially assessed upon the lots according to the extent of their frontage by an equal special rate per foot of such frontage. R.S.O. 1960, c. 223, s. 37.

Assessment of non-abutting land unequally benefited

38. Where land not abutting directly upon a work is to be specially assessed, and the whole of it is not equally benefited, such land shall be divided into as many districts or sections as there are different proportions of benefit so that a district or section shall embrace all the land that will be benefited in the same proportion, and its proper proportion of the cost shall be assigned to each district or section, and the portion of the cost to be borne by each district or section shall be specially assessed on the lots therein according to the extent of their frontage by an equal special rate per foot of such frontage. R.S.O. 1960, c. 223, s. 38.

39.—(1) Where a by-law has been passed providing for the undertaking of a work and lands that are assessed in one block and are or are to be specially assessed become subdivided, the council of the corporation with the approval of the Board may,

Special
assessment
of land
assessed in
block that
becomes
subdivided

- (a) amend the by-law for undertaking the work to define such lands so assessed in one block as an area; and
- (b) provide that the special assessments that would have been assessed against such lands, including all or part of any assessments that would otherwise become part of the corporation's share by reason of any new street provided for in such subdivision,
 - (i) shall be assessed and levied on the rateable property in the area, or
 - (ii) shall be assessed and levied in whole or in part upon the new lots fronting or abutting on the work and that the balance, if any, shall be assessed and levied on the rateable property in the area.

(2) Where a by-law is amended under subsection 1, the special assessment roll with respect to such area shall be amended by entering in accordance with section 41 every lot in the area to be specially assessed under this section.

Amendment
of special
assessment
roll

(3) Section 44 applies *mutatis mutandis* to the special assessments made under this section. R.S.O. 1960, c. 223, s. 39.

Holding
court of
revision

PROCEDURE FOR MAKING SPECIAL ASSESSMENT

40.—(1) Where the owners' portion of the cost is to be specially assessed upon the lots abutting directly on the work by an equal special rate per foot frontage, before passing the by-law for undertaking it, the council shall cause to be made,

Where all
of owners'
portion
assessed on
abutting
land

- (a) a report as to the lifetime of the work;
- (b) a report as to the reductions, if any, which ought to be made under section 28 in respect of any lot and the aggregate amount of such reductions;
- (c) an estimate of the cost of the work;
- (d) a statement of the share or proportion of the cost that should be borne by the land abutting directly on the work and by the corporation respectively;
- (e) a report as to the number of instalments by which the special assessment should be made payable.

(2) In the case of a work, part of the owners' portion of the cost of which may be specially assessed on land not abutting directly on the work, before passing the by-law for undertaking the work, in addition to procuring the reports and estimate mentioned in subsection 1, the council shall cause a further report to be made, stating,

Non-
abutting
land

- (a) whether it would be inequitable to charge the whole of the owners' portion of the cost on the land abutting directly on the work; and
- (b) if inequitable to do so, what portion of the cost should be borne by the corporation, what portion thereof should be specially assessed upon the land abutting directly on the work and what land not abutting directly on the work will be immediately benefited and should be specially assessed for any part of the cost and the portion of the cost which should be specially assessed upon it.

Lifetime of
work of
widening
pavement

(3) Where the work is the widening of a pavement that has been constructed as a local improvement and the lifetime of which has not expired, the unexpired portion of the lifetime of the pavement so constructed shall be the lifetime of the work. R.S.O. 1960, c. 223, s. 40.

Special
assessment
roll

41. Before a special assessment is imposed, the council shall cause a special assessment roll to be made, in which shall be entered,

- (a) every lot to be specially assessed in respect of the owners' portion of the cost, the name of the owner and the number of feet of its frontage to be so assessed;
- (b) every lot that, but for section 63, would be exempt from the special assessment and the number of feet of its frontage;
- (c) the rate per foot with which each lot is to be so assessed;
- (d) the number of instalments by which the special assessment is to be payable. R.S.O. 1960, c. 223, s. 41.

How
reports,
statements,
etc., to be
made

42. The council may provide for the making of the reports, statements, estimates and special assessment roll mentioned in sections 40 and 41 in such manner and by such officer of the corporation or person as the council may consider proper, and may do so by a general by-law applicable to all works or to any class or classes of them or by a by-law applicable to the particular work. R.S.O. 1960, c. 223, s. 42.

Court of
revision

43.—(1) The court of revision shall consist of three or five members appointed by the council of the municipality and such members other than members of the council may be paid such remuneration and expenses as the council may by by-law provide.

Qualifica-
tion

(2) Every such member shall be a person eligible to be elected a member of the council or shall be a member of the council. 1968-69, c. 63, s. 2.

44.—(1) Before a special assessment is imposed, a sittings of the court of revision for the hearing of complaints against the proposed special assessment shall be held.

Holding
of court of
revision

(2) Ten days notice of the time and place of the sittings shall be given by publication, and at least fifteen days before the day appointed for the sittings a notice in Form 4 shall be mailed to the owner of every lot that is to be specially assessed. R.S.O. 1960, c. 223, s. 43.

Time and
place

45. The special assessment roll shall be kept open for inspection at the office of the clerk for at least ten days next before the day appointed for the sittings of the court of revision. R.S.O. 1960, c. 223, s. 44.

Roll to be
kept open
for 10 days

46. A statement showing under appropriate heads the actual cost of the work, verified by the certificate of the clerk, assessment commissioner, treasurer or deputy or assistant treasurer of the municipality, shall be delivered to the chairman of the court of revision before the meeting of the court. R.S.O. 1960, c. 223, s. 45.

Statement
of cost of
work for
court of
revision

47.—(1) In ascertaining the actual cost of the work under section 46 where, in the opinion of the engineer and assessment commissioner or treasurer, the cost of any unfinished portion of the work and any unsettled claims for lands taken for or injuriously affected by the work will not exceed in amount 25 per cent of the total estimated cost of the work, the engineer and assessment commissioner or treasurer may estimate the cost of such unfinished work, and the amount of all such claims, and the amount may be included in the actual cost to be ascertained and certified under section 46, and shall be deemed to be the correct amount thereof subject to any order made with reference thereto by the court of revision.

Estimate of
cost of
unfinished
work and
unsettled
claims

(2) If the cost of such unfinished work and unsettled claims exceeds the amount so estimated by the engineer and assessment commissioner or treasurer, the excess over the estimated amount shall be borne by the corporation.

Where
estimate
deficient

(3) If the cost of such unfinished work and unsettled claims is less than the estimated cost, the balance remaining in the hands of the municipality shall be applied *pro tanto* to payment of the rates to be levied under the by-law. R.S.O. 1960, c. 223, s. 46.

Where
estimate
excessive

48.—(1) The court of revision has jurisdiction and power to review the proposed special assessment and to correct the same as to all or any of the following matters:

Powers of
court

- (a) where the owners' portion of the cost is to be specially assessed against the land abutting directly on the work,

- (i) the names of the owners of the lots,
 - (ii) the frontage or other measurements of the lots,
 - (iii) the amount of the reduction to be made under section 28 in respect of any lot,
 - (iv) the lots which, but for section 63, would be exempt from special assessment,
 - (v) the lifetime of the work,
 - (vi) the rate per foot with which any lot is to be specially assessed, and
 - (vii) the exemption or amount of reduction to be made under section 30 in respect of any lot;
- (b) where part of the owners' portion of the cost is to be specially assessed on land not abutting directly on the work, in addition to the matters mentioned in clause a, as to the lots other than those abutting directly on the work which are or will be immediately benefited by it, and as to the special assessment which such lots should respectively bear;
- (c) in all cases as to the actual cost of the work.

No power to alter proportions of cost

(2) The court of revision does not have jurisdiction or authority to review or to alter the proportions of the cost of the work that the lands to be specially assessed and the corporation are respectively to bear according to the provisions of the by-law for undertaking the work. R.S.O. 1960, c. 223, s. 47.

Power to reduce special assessment where gross error

49. Notwithstanding subsection 2 of section 48, the court of revision at any time after the certification of the special assessment roll may reduce any special assessment for the current year and the remaining years of the debenture debt by reason of any gross or manifest error and the amount by which any owner's share of the cost of a work is reduced shall be added to the corporation's share of the cost. R.S.O. 1960, c. 223, s. 48.

Omission to assess certain lots

50.—(1) Where it appears to the court of revision that any lot that has not been specially assessed should be specially assessed, before finally determining the matter, the court shall adjourn its sittings to a future day and shall cause notice in Form 4 to be given to the owner of the lot of the time and place when the adjourned sittings will be held.

Time for mailing notice

(2) The notice shall be mailed at least six days before the time fixed for the adjourned sittings.

Power to fix special assessment of lots

(3) If the court of revision determines that any such lot ought to be specially assessed, the court has jurisdiction and power to fix and determine the amount of the special assessment thereon. R.S.O. 1960, c. 223, s. 49.

51. The clerk shall make such corrections in the special assessment roll as are necessary to give effect to the decisions of the court of revision, and the roll when so corrected shall be certified by the clerk, and, when so certified, except in so far as it may be further amended on appeal to the judge, the assessment roll and the special assessment are valid and binding upon all persons concerned and upon the land specially assessed, and the work in respect of which the special assessment roll has been made and certified shall be conclusively deemed to have been lawfully undertaken and proceeded with pursuant to and in accordance with this Act. R.S.O. 1960, c. 223, s. 50.

When special assessment roll to be final

52.—(1) The council or the owner of a lot specially assessed may appeal to the judge of the county court from any decision of the court of revision. R.S.O. 1960, c. 223, s. 51 (1).

Appeal to county judge

(2) The provisions of *The Assessment Act* as to appeals to the judge apply to an appeal under subsection 1, except that, in the case of an appeal by the owner of a lot specially assessed, the notice of appeal shall be given to the clerk of the municipality in lieu of the assessment commissioner. R.S.O. 1960, c. 223, s. 51 (2); 1961-62, c. 75, s. 2.

Application of R.S.O. 1970, c. 32

(3) The judge has the like jurisdiction and powers as are conferred on the court of revision by section 48, and the provisions of section 50 apply where it appears to the judge that any lot not specially assessed ought to be so assessed.

Powers of judge

(4) Any further appeal lies from the decision of the judge to the Board or the Court of Appeal in the same manner as an appeal from a decision of a county judge under *The Assessment Act*, and the provisions of that Act with respect to an appeal from a county judge apply *mutatis mutandis*. R.S.O. 1960, c. 223, s. 51 (3, 4).

Further appeal

BORROWING POWERS

53.—(1) The council may agree with any bank or person for temporary advances to meet the cost of the work pending the completion of it.

Temporary loans

(2) The council may, when the work undertaken is completed, borrow on the credit of the corporation at large such sums as may be necessary to repay such advances and to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

Issue of debentures

(3) Where the council has undertaken the construction of several sewers connected as a system of sewers, no sewer in the system shall for the purposes of subsections 1 and 2 be deemed to be completed until all the sewers in the system are completed, and

When sewage works deemed to be completed

there shall be added to the cost of each sewer forming part of the system its proportionate share of the whole of the interest upon the temporary loans made by the corporation pending the construction of all the sewers forming the system as if all the sewers had been constructed at the same time.

Application
of
R.S.O. 1970,
c. 284

(4) The provisions of *The Municipal Act* as to by-laws for creating debts apply to by-laws passed under subsection 2, except that it is not necessary,

- (a) that the by-law be submitted to or receive the assent of the electors;
- (b) that any rate be imposed for the payment of the principal of so much of the money borrowed as represents the owners' portion of the cost or of the interest thereon, other than the special rate per foot frontage imposed to meet it,

and except that the debentures, save as provided by section 56, shall be payable within the lifetime of the work.

Special
fund for
payment of
debentures

(5) The special rates imposed for the owners' portion of the cost shall form a special fund for the payment of the debentures issued under subsection 2 and the interest thereon and shall not be applicable to or be applied for any other purpose.

General rate
to meet
deficiency
in special
rate

(6) If in any year the amount realized from the special rate imposed to provide for the owners' portion of the cost and interest is insufficient to pay the amount falling due in such year in respect of so much of the debentures as represents the owners' portion of the cost, the council shall provide for the deficiency in the estimates for the following year and levy and collect the same by a general rate, but this does not relieve the land specially assessed from the special rate thereon.

Owners'
portion not
to be
deemed part
of debenture
debt of
corporation

(7) The amount borrowed under subsection 2, in respect of the owners' portion of the cost, shall not be deemed to be part of the existing debenture debt of the corporation within the meaning of the provisions of *The Municipal Act* limiting the borrowing powers of the municipality.

Corpora-
tion's por-
tion may
be included
in yearly
estimates

(8) Instead of borrowing the amount of the corporation's portion of the cost of a work undertaken, the council may include the same in the estimates of the year.

Disposal of
excess sums

(9) When the amount realized from the debentures exceeds the amount of the cost of the work, the excess sum shall be applied in the manner provided in subsection 2 of section 313 of *The Municipal Act*, unless all the rates have been levied under the by-law, in which case the excess sum shall be paid *pro tanto* to the owners, at the time such payment is made, of the land on which the rates were levied.

(10) Subsection 9 does not apply to a by-law passed prior to the 1st day of January, 1941. R.S.O. 1960, c. 223, s. 52.

Application
of subs. 9

54.—(1) Where two or more works have been constructed and the by-laws provided for by subsection 2 of section 53 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by by-law, hereinafter called the consolidating by-law, may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Consolida-
tion of
by-laws

(2) The consolidating by-law shall show by recitals or otherwise in respect of what separate by-laws it is passed.

Recitals

(3) It is not necessary that the consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose.

Rates not to
be imposed
by consoli-
dating
by-law

(4) A consolidating by-law passed under subsection 1 may authorize the issue of debentures in one series notwithstanding that some of the debentures may be for different terms of years from the other debentures to be issued thereunder, provided the sum to be raised in each year under the consolidating by-law shall equal the aggregate of the sums that would have been raised under the separate by-laws had no consolidating by-law been passed. R.S.O. 1960, c. 223, s. 53.

Consoli-
dating by-
law may
authorize
debentures
of different
terms of
years

55. Instead of passing a by-law under section 53 in respect of each individual work, a council may pass one by-law in respect of several local improvement works giving in such by-law in respect of each work substantially the same information as would be given in several by-laws respecting such works, and may provide in such by-law for borrowing the aggregate cost of the several works and for issuing one series of debentures therefor. R.S.O. 1960, c. 223, s. 54.

One by-law
for several
works

56.—(1) The council shall impose upon the land liable therefor the special assessment with which it is chargeable in respect of the owners' portion of the cost, and the same shall be payable in such annual instalments as the council shall prescribe, but not so as to extend beyond the lifetime of the work unless the work is of the class prescribed in clause 1 of subsection 1 of section 2, in which case the annual instalments may extend over a period of not more than forty years.

Term of
annual
instalments
of special
assessment

(2) In fixing the amount of the annual instalments, a sum sufficient to cover the interest shall be added.

Interest

Commuta-
tion of
special
rates

(3) The council may also, either by general by-law or by a by-law applicable to the particular work, prescribe the terms and conditions upon which persons whose lots are specially assessed may commute for a payment in cash the special rates imposed thereon. R.S.O. 1960, c. 223, s. 55.

Time special
or general
rate may be
levied

57. Any special or general rate imposed by a by-law providing for the issue of debentures to pay for the cost or part of the cost of a work undertaken under this Act may be levied by the council as soon as the by-law is passed and no such rate heretofore or hereafter levied shall be held to be illegal by reason of the debentures in respect of which the rate is levied, or any of same, not having been issued at the time of levying the rate. R.S.O. 1960, c. 223, s. 56; 1960-61, c. 49, s. 3.

Application
of
R.S.O. 1970,
c. 284

58. The provisions of *The Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default of payment thereof, apply to the special assessments and the special rates imposed for the payment of them. R.S.O. 1960, c. 223, s. 57, *amended*.

Where by-
law quashed
court may
direct pass-
ing of new
by-law

59.—(1) If the special assessment in respect of it has become confirmed under section 51, no by-law for borrowing money to defray the cost of the work or for imposing the special assessment shall be quashed, set aside or adjudged to be invalid by reason of its illegality or of any defect in it, but the court in which any proceeding for quashing, setting aside or declaring to be invalid the by-law is taken shall, on such terms and conditions as to costs and otherwise as may be deemed proper, direct the council to amend or to repeal the by-law and, where a repealing by-law is directed, to pass a new by-law in proper form in lieu of the repealed by-law, and it is the duty of the council to pass such by-law or by-laws accordingly.

Liabilities
incurred to
be binding

(2) Every liability or obligation incurred and every debenture issued by the corporation under the authority of any such defective or illegal by-law is as effectual and as binding as if the amending or new by-law directed to be passed had been passed and was in force at the time the liability or obligation was incurred or the debenture was issued.

Where
council of its
own motion
directs
passing of
new by-law

(3) Although no proceeding has been taken to quash, set aside or declare invalid the by-law, the council may of its own motion and if required by any person to whom it has incurred any liability on the faith of the by-law shall pass such amending or new by-law as may be necessary to make effectual and binding the liability so incurred and any debenture issued under the authority of such by-law, and the provisions of subsection 2 as to the effect of an amending or new by-law apply to any by-law so passed. R.S.O. 1960, c. 223, s. 58.

REPAIR OF WORK

60.—(1) When a work has been completed, it shall be kept in repair and maintained and may be renewed or replaced at the expense of the corporation and the corporation may by by-law provide for the issue of debentures for such renewal or replacement.

Repair,
maintenance
and replace-
ment of
works

(2) Nothing in this Act relieves the corporation from any duty or obligation to keep in repair the highways under its jurisdiction to which it is subject either at common law or under *The Municipal Act*, or otherwise, or impair or prejudicially affect the rights of any person who is damnified by reason of the failure of the corporation to discharge such duty or obligation. R.S.O. 1960, c. 223, s. 59.

General
duty to
repair not
affected
R.S.O. 1970,
c. 284

61.—(1) Where, at any time during the lifetime of a work undertaken, the corporation fails to keep and maintain it in a good and sufficient state of repair, and, after one month's notice in writing by the owner or occupant of any lot specially assessed requiring the corporation to do so, does not put the work in repair, a judge of the Supreme Court, or the judge of the county court of the county in which the municipality lies, upon the application of any owner or occupant of any land so specially assessed, may make an order requiring the corporation to put the work in repair.

Compelling
corporation
to repair

(2) The judge may determine what repairs are necessary and by his order may direct them to be made in such manner, within such time and under such supervision as he may consider proper.

Determina-
tion as to
necessary
repairs

(3) Where a person under whose supervision the repairs are to be made is appointed, the judge may fix and determine the remuneration to be paid to such person and the same shall be paid by the corporation and payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

Remunera-
tion of
person
supervising

(4) The order has the same effect and may be enforced in like manner as a peremptory mandamus.

Effect of
order

(5) If the corporation does not comply with the order of the judge, in addition to any other remedy to which the applicant for the order may be entitled, the judge may authorize the repairs to be made by the applicant and, if made by him, the cost thereof shall be ascertained and determined by the judge, and, when so ascertained and determined, payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money.

When
repairs may
be made by
applicant
and
payment
therefor

(6) An appeal lies to the Court of Appeal from any order made under this section. R.S.O. 1960, c. 223, s. 60.

Appeal

ASSESSMENT OF LAND EXEMPT FROM TAXATION

Certain
lands
exempt
from
taxation
liable to be
specially
assessed
R.S.O. 1970,
cc. 424, 32

62. Land on which a church or place of worship is erected or that is used in connection therewith, the land of a university, college or seminary of learning, whether vested in a trustee or otherwise and the land of a board of an elementary or secondary school, as defined in *The Schools Administration Act*, is liable to be specially assessed for local improvements, notwithstanding the provisions of *The Assessment Act*. 1968-69, c. 63, s. 3.

Land
exempt from
taxation for
local im-
provements
to be
specially
assessed

63. Land exempt from taxation for local improvements under any general or special Act shall nevertheless, for all purposes, except petitioning for or against undertaking a work, be subject to the provisions of this Act and shall be specially assessed; but the special assessments imposed thereon that fall due while such land remains exempt are not collectable from the owner thereof, but shall be paid by the corporation. R.S.O. 1960, c. 223, s. 62.

STREET CLEANING, ETC.

Cleaning,
watering,
lighting
streets, etc.

64.—(1) The council may by by-law provide that thereafter the annual cost of cleaning, clearing of snow and ice, watering, oiling, sweeping, lighting, light supplied in excess of that supplied at the expense of the corporation at large, cutting grass and weeds and trimming trees and shrubbery on any street, or any one or more of such services, shall be specially assessed upon the land abutting directly on the street according to the frontage thereof, and the foregoing provisions of this Act do not apply to such services.

Street
lighting,
apportion-
ment of cost

(2) As to any of the services mentioned in subsection 1, the by-law may provide that a part of the annual cost may be assessed upon the lands abutting directly on the street and that the remainder of such cost shall be assumed by the corporation at large.

Application
to defined
areas

(3) Instead of naming the particular street or streets, the by-law may apply to all the streets in a defined section or sections of the municipality.

Special rate

(4) Where the council so provides, the amount of the special rate imposed to defray such cost may be entered on the collector's roll and collected in like manner as other taxes.

Duration
of by-law

(5) The by-law remains in force from year to year until repealed. R.S.O. 1960, c. 223, s. 63.

Power to
construct
works on
boundary
lines

65.—(1) Where a highway forms the boundary between two or more municipalites, although it lies wholly within one or partly within two or more of them, the corporations of the municipalities may agree,

(a) to undertake in respect of the highway or any part of it

any work or service that may be undertaken as a local improvement under this Act;

- (b) as to the council by which the work or service shall be undertaken;
- (c) as to whether the corporation's portion of the cost shall be provided for by borrowing or shall be included in the estimates of the year;
- (d) as to the proportions in which the corporation's portion of the cost shall be borne by such corporations respectively.

(2) The council of the municipality that according to the agreement is to undertake the work or service, hereinafter called the initiating council, has all the powers and shall perform all the duties in respect of it that may be exercised or are to be performed by the council of a municipality that undertakes a work or service as a local improvement under this Act, and the highway shall, for the purposes of the work or service, be deemed to lie wholly within and to be under the exclusive jurisdiction of the initiating council.

Powers and
duties of
initiating
council

(3) The clerk of the initiating council shall forthwith, after the passing of its by-law imposing the special rates to defray the owners' portion of the cost, deliver or transmit by registered mail to the clerk of any municipality in which is situate any land upon which a special rate has been imposed a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Certified
copies of
by-law to be
sent to
clerks of
other munici-
palities

(4) The rates required by the by-law to be levied and collected in any year upon land in any municipality, other than that by the council of which the by-law is passed, shall be collected by the council of such municipality in like manner as if such rates had been imposed by that council.

Collection
of rates in
other munici-
palities

(5) The corporation of each of the municipalities, other than that by the council of which the work or service is undertaken, shall pay to the last-mentioned corporation the sums that are to be levied and collected in that year under subsection 4, and such payment shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them.

Payment
over to
initiating
council

(6) Such payment does not relieve any land specially assessed from the special rate thereon, but it remains liable for the special rate until it is paid.

Payment
not to
relieve land
assessed

(7) Where the agreement provides that the corporation's portion of the cost shall be included in the estimates of the year, the corporation of each of the municipalities, other than that by

Payment
over where
corporation's
portion
included in
estimates

the council of which the work or service is undertaken, shall pay to that corporation when the amount of the corporation's portion of the cost is finally determined its share or portion of such cost, and the amount so paid shall be provided for in the estimates for the then current year of the council of the corporation that is to pay it.

Where
corpora-
tion's
portion met
by issue of
debentures

(8) Where the agreement provides that the amount required to defray the corporation's portion of the cost is to be borrowed, the corporation of each of the municipalities, except that by the council of which the work or service is undertaken, shall, in each year during the currency of the debentures issued for the money borrowed, pay to that corporation the same proportion of the principal and the interest payable in that year as under the agreement it is to bear of the corporation's portion of the cost, and the amount that the by-law for borrowing the money requires to be raised in that year shall be reduced by the sum so paid.

Maintenance
and repair

(9) The corporations shall bear the cost of keeping the work in repair in the proportions in which the cost of the work is to be borne by them. R.S.O. 1960, c. 223, s. 64.

Construction
of bridge
over ravine
separating
municipal-
ities

66.—(1) Where a ravine separates the lands of adjoining municipalities and it is deemed desirable to construct a bridge connecting the lands of the municipalities, the council of either municipality may pass a by-law for undertaking the work of constructing the bridge or of constructing the bridge combined with any other work that may be undertaken as a local improvement, and the provisions of this Act apply except that, subject to subsections 2 and 3, no part of the cost of the work shall be assessed upon lands in the other municipality.

Agreement
with other
municipality
as to pro-
portion of
cost to be
borne by it

(2) Where lands that will be benefited by the work lie within the limits of any municipality other than the initiating municipality, the council of the initiating municipality may agree with the council of the other municipality as to the proportion of the cost of the work to be borne by the corporation of the municipality and the lands within it, and such last-mentioned council may pass a by-law for the issue of debentures for the amount of such proportion, payable within such period not exceeding twenty years as the council may determine, and it is not necessary that the by-law be submitted to the vote of the electors.

Powers of
other muni-
cipality to
specially
assess land

(3) The council of such other municipality may proceed under this Act for the purpose of assessing the lands within it, that will be benefited by the work, their proper proportion of the amount that it has agreed to contribute to the cost of the work in the same way as if the work had been undertaken by such council and the amount to be so contributed were the cost of the work, and the proceedings shall be in accordance with the provisions of this Act. R.S.O. 1960, c. 223, s. 65.

SPECIAL PROVISIONS AS TO TOWNSHIPS, TOWNS,
VILLAGES, ETC.

67. In addition to the works authorized to be undertaken in section 2, the council of a township or village may undertake as a local improvement the construction, renewal or replacement of water works, the laying of mains and other appliances to connect with any existing system of water works, whether owned by the corporation or any other person, the construction of sewage treatment works, or the construction of such works, plant, appliances and equipment as may be necessary for street lighting. R.S.O. 1960, c. 223, s. 66.

Additional
works in
townships
and villages

68.—(1) The council of a municipality may, in the by-law for undertaking any work as a local improvement, define an area in the municipality and provide that the cost of the work including debenture charges and the cost of maintenance and management of the work including the cost of the utility supplied shall be assessed and levied on the rateable property in the area. 1960-61, c. 49, s. 4.

Assessment
of cost of
works in
areas

(2) Where the work is the construction of a watermain, sewer, sidewalk, curb, pavement or street lighting, the by-law may provide that the whole or a part of the cost of the work shall be assessed upon the lots fronting or abutting on the work and in such case the balance of the cost including debenture charges, if any, and the cost of maintenance and management including the cost of the utility supplied shall be assessed and levied on the rateable property in the area.

Assessment
of cost of
certain
works

(3) The corporation may by by-law provide for the issue of debentures for any work undertaken under this section.

Debentures

(4) Where a local improvement area is defined under this section and the by-law provides that the cost of the work shall be assessed and levied on the rateable property in the area, it is not necessary to serve notice of intention to construct the work upon the owners of lots in the area. R.S.O. 1960, c. 223, s. 67 (2-4).

Notice of
intention
unnecessary

69. Where a local improvement area is defined under section 68, the area may by by-law, subject to the approval of the Board, be enlarged, reduced, altered, dissolved or amalgamated with any other such area and in such case the Board shall make any necessary adjustments of the assets and liabilities of the areas affected. R.S.O. 1960, c. 223, s. 68.

Alteration,
etc., of
areas

ADOPTION OF LOCAL IMPROVEMENT SYSTEM

70.—(1) The council of a corporation by by-law passed with the assent of the municipal electors, in accordance with *The Municipal Act*, may provide that all works that may be undertaken as local improvements, or any one or more classes or descrip-

Adoption of
local im-
provement
system
R.S.O. 1970,
c. 284

tions of such works thereafter, or after a day named in the by-law, shall be undertaken as local improvements and not otherwise.

Repeal of
by-law

(2) The by-law may be repealed, but only by a by-law passed with the like assent.

Renewal or
replacement
of local
improvement
works

(3) Notwithstanding subsection 1, the council of a corporation may by by-law provide for the renewal or replacement of any local improvement work at the expense of the corporation, or partly at the expense of the corporation and partly as a local improvement, or wholly as a local improvement. R.S.O. 1960, c. 223, s. 69.

MISCELLANEOUS

Special
rates and
covenant
against en-
cumbrances

71. The special assessment and the special rates charged or chargeable upon land for or in respect of the cost of any work undertaken, whether upon petition or otherwise, except so much of them as is in arrear and unpaid, shall not, as between a vendor and a purchaser, or as respects a covenant against encumbrances, or for the right to convey, or for quiet possession free from encumbrances, be deemed to be an encumbrance upon the land upon which the special rate is charged or chargeable. R.S.O. 1960, c. 223, s. 70.

When work
may be
completed

72. Proceedings for undertaking a work begun by one council may be continued, and the work may be begun, continued and completed by a succeeding council. R.S.O. 1960, c. 223, s. 71.

Board may
prescribe
forms

73. The Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form so approved shall not be open to objection on the ground that it is not in the form required by the provisions of this Act applicable thereto, but the use of such forms is not obligatory. R.S.O. 1960, c. 223, s. 72.

FORM 1

(Section 10)

Take notice that

1. The council of The Corporation of the of intends to construct as a local improvement (*describe the work*) on (or in) street between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed, add*) and upon the following land that is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$....., of which \$..... is to be paid by the Corporation. The estimated cost per foot frontage is \$..... The special assessment is to be paid in annual instalments.

3. A petition to the council will not avail to prevent its construction, but a petition against the work or the manner in which it has been undertaken may be made, pursuant to section 10 of *The Local Improvement Act*, to the Ontario Municipal Board, by a majority of the owners representing at least one-half of the value of the lots that are to be specially assessed therefor.

4. A by-law for undertaking the work will be considered by the council at a meeting thereof to be held on the day of 19....., or at a regular or special meeting thereof to be held thereafter.

Dated Clerk

(*Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections, the form will be altered to show the special rate per foot frontage in each district or section.*)

R.S.O. 1960, c. 223, Form 1.

FORM 2

(Section 8)

Take notice that

1. The council of The Corporation of the of intends to construct as a local improvement (*describe the work*) on (or in) street between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed, add*) and upon the following land that is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$....., of which \$..... is to be paid by the Corporation. The estimated cost per foot frontage is \$..... The special assessment is to be paid in equal annual instalments and the estimated annual rate per foot frontage is cents.

3. Application will be made by the Corporation to the Ontario Municipal Board for its approval of the undertaking of the work and,

- (a) where this Form is published under subsection 3 of section 8 of *The Local Improvement Act*, any owner may within twenty-one days after the first publication of this notice file with the clerk his objection to the work being undertaken; or
- (b) where this Form is mailed and published under subsection 4 of the said section 8, any owner may within twenty-one days after the publication or mailing of the notice, whichever is later, file with the clerk his objection to the work being undertaken.

4. The Board may approve of the work being undertaken, but before doing so it may appoint a time and place when any objections to the work will be considered.

Dated Clerk

(Note.—Where it is intended to assess part of the cost upon non-abutting land, the form of notice is to be amended to show the cost per foot frontage and the annual frontage rate to be charged against such lands.)

R.S.O. 1960, c. 223, Form 2; 1962-63, c. 75, s. 3.

FORM 3

(Section 12)

Take notice that

1. The council of The Corporation of the of intends to construct (*describe the work*) on (or in) street between (*describe the points between which the work is to be constructed*) as a local improvement and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed, add*) and upon the following land that is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$....., of which \$..... is to be paid by the Corporation, and the estimated cost per foot frontage is \$..... The special assessment is to be paid in annual instalments.

3. Persons desiring to petition against undertaking the work must do so on or before the day of 19.....

Dated Clerk

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections, the form will be altered to show the special rate per foot frontage in each district or section.)

R.S.O. 1960, c. 223, Form 3.

FORM 4

(Section 44 (2), 50 (1))

Take notice that

1. The council of The Corporation of the of has constructed as a local improvement (*describe the work*) on (or in) street between (*describe the points between which the work has been constructed*).

2. The cost of the work is \$..... of which \$..... is to be paid by the Corporation. The special rate per foot frontage is \$..... The special assessment is to be paid in annual instalments.

3. The estimated lifetime of the work is years.

4. A court of revision will be held on the day of 19....., at o'clock at the (*insert place of meeting*) for the purpose of hearing complaints against the proposed assessments or the accuracy of frontage measurements and any other complaint that persons interested may desire to make and that is by law cognisable by the court.

(or where the court of revision proceeds under section 50)

5. You are served with this notice because the court of revision is of opinion that your lot, though not specially assessed, should be specially assessed in respect of the owners' portion of the cost of the work and an adjourned sittings of the court will be held on the day of 19....., at o'clock at the (*insert place of meeting*) when the matter will be determined by the court.

Dated Clerk

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections, the form will be altered to show the special rate per foot frontage in each district or section.)

R.S.O. 1960, c. 223, Form 4.

CHAPTER 256

The Local Roads Boards Act**1. In this Act,**Interpre-
tation

- (a) "board" means a board of a local roads area;
- (b) "land" includes land covered with water;
- (c) "local roads area" means a local roads area established under this Act;
- (d) "Minister" means the Minister of Highways;
- (e) "owner" means a person entitled to convey land and whose interest in the land is defined and whose name is specified in an instrument registered in the proper registry or land titles office, and includes a lessee of the Crown and a locatee under *The Public Lands Act*;
- (f) "prescribed" means prescribed by the regulations made under this Act;
- (g) "register" means the Local Roads Tax Register;
- (h) "secretary-treasurer" means a secretary-treasurer appointed by a board under this Act. 1964, c. 56, s. 1; 1965, c. 63, s. 1.

R.S.O. 1970,
c. 380

2. This Act applies only in territory without municipal organization. 1964, c. 56, s. 2.

Application

3. Any matter to be determined by a vote at any meeting held under the authority of this Act shall be determined by a majority of the owners voting on the matter, and the owners shall decide how the voting shall be conducted. 1964, c. 56, s. 3.

Votes

4.—(1) Every owner of land in a local roads area of the full age of twenty-one years, including the chairman of the meeting, is entitled to vote on any matter to be decided by a vote.

Qualification
of voters

(2) If an objection is made to the right of any person to vote at a meeting, the chairman shall require the person to identify the land in respect of which he claims the right to vote and to take an oath or affirmation that he is of the full age of twenty-one years and the owner of such land. 1964, c. 56, s. 4.

Idem

5. No person shall be elected or appointed a trustee of a board unless he is,

Qualification
of trustees

- (a) of the full age of twenty-one years;
- (b) a Canadian citizen; and

- (c) an owner of land in the local roads area or proposed local roads area, as the case may be, in respect of which no taxes of a preceding year or years payable under this Act are in arrears. 1964, c. 56, s. 5.

Declaration of office

6. Every person elected or appointed to a board or appointed secretary-treasurer of a board shall, before entering upon his duties, take a declaration of office in the prescribed form. 1964, c. 56, s. 6.

Meeting for establishment of area and board

7.—(1) Ten or more owners of land in a proposed local roads area may, in writing, appoint one of their number to call a meeting of all owners of land in such area to consider the establishment of a local roads area.

Notice of meeting

(2) The owner so appointed shall call a meeting within ten days of his appointment by posting up in at least six conspicuous places and at each post office and school house in the proposed local roads area a notice setting forth a description or illustration of the roads to be included in and the boundaries of the proposed local roads area, the place, date, time and purpose of the meeting, the date of the posting of the notice and his name and address.

Date of meeting

(3) The date of the meeting shall be at least ten days after the date of the posting up of the last notice.

Idem

(4) The meeting shall take place at the time and place set forth in the notice, and the owner appointed under subsection 1 shall preside at the meeting as chairman, but, if he is absent or declines to act, the owners of land in the proposed local roads area who are present at the meeting shall elect another of their number to act as chairman.

Secretary

(5) The owners of land in the proposed local roads area who are present at the meeting shall elect a secretary to record the proceedings.

Area and roads determined by vote

(6) The owners of land in the proposed local roads area who are present at the meeting shall by vote determine the boundaries of the proposed local roads area, which area may be smaller but not larger than the area originally proposed, and the local roads to be included therein. 1964, c. 56, s. 7 (1-6).

Election of trustees, petition to Minister

(7) Where a majority of the owners of land in the proposed local roads area vote in favour of the establishment of a local roads area,

- (a) the owners of land in the area who are present at the meeting shall elect three of their number to be trustees of the board; and

- (b) the secretary shall forward to the Minister a petition in the prescribed form requesting that the proposed local roads area approved by the vote of the owners under subsection 6 be established as a local roads area and that the local roads approved by such vote be included therein. 1964, c. 56, s. 7 (7); 1965, c. 63, s. 2.

8.—(1) Upon receipt of a petition, the Minister, if he considers it in the public interest so to do for the purposes of this Act, may, by order in writing, establish the proposed local roads area, or any smaller or larger area as he considers appropriate, as a local roads area, and he may designate the local roads to be included therein. Minister's order

(2) Upon the establishment of a local roads area, the trustees elected under subsection 7 of section 7 form the board for the year in which they were elected and until successors elected in their stead have taken office. 1964, c. 56, s. 8. Trustees form board

9.—(1) Every board shall meet within twenty-one days of the receipt of the order of the Minister establishing the local roads area. First meeting

(2) Every board shall at its first meeting elect one of their number to be chairman of the board. 1964, c. 56, s. 9. Chairman

10.—(1) The board shall annually, and may as often as it considers necessary, inspect the local roads in the local roads area. Duties of board, inspection

(2) The board may, within the limit of the money available to pay for such work and subject to the approval of the Minister, determine the work to be performed on local roads in the local roads area. roadwork

(3) If for any reason a trustee is unable or unwilling to act, the remaining two trustees may appoint an owner of land in the local roads area to serve for the remainder of the term of such trustee, and, where he is the chairman of the board, a new chairman shall be elected by the trustees. Trustee failing to act

(4) Every board shall appoint a secretary-treasurer who may be a member of the board other than the chairman and, subject to such direction as the Minister may give, shall pay the secretary-treasurer such salary as the board may determine. Secretary-treasurer

(5) Before entering on the duties of his office, the secretary-treasurer shall give annually such security as the board may direct for the faithful performance of such duties and for duly accounting for all moneys that come into his hands. Security to be furnished by secretary-treasurer

(6) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company within the meaning of *The Guarantee Companies Securities Act*, and shall be in such form and on such terms as the Minister may approve. Nature of security
R.S.O. 1970, c. 196

Duties

(7) In addition to the other duties prescribed by this Act, a secretary-treasurer shall attend all meetings of the board, keep minutes of such meetings, carry on correspondence as directed by the board, receive and safely keep all moneys paid to the board and maintain books of account and other records as may be required by the Minister or the board. 1964, c. 56, s. 10.

Annual meeting

11.—(1) Before the 1st day of November in each year, the board shall call an annual meeting of the owners of land in the local roads area for the election of the successors of the members of the board and for the conduct of other business, including the presentation of a statement of the receipts and disbursements of the board and the auditor's report, if one has been made.

Idem

(2) The secretary-treasurer shall send notice of the time, date and place of the annual meeting to every owner of land in the local roads area and to the Minister not less than fourteen days before the meeting. 1964, c. 56, s. 11.

Trustees,
term of
office

12. The trustees elected at an annual meeting shall assume office on the 1st day of January in the year next following the year in which they were elected. 1964, c. 56, s. 12.

Chairman

13. The chairman of the board shall act as chairman of the annual meeting. 1964, c. 56, s. 13.

Annual
meeting,
on call of
secretary-
treasurer

14.—(1) If in any year the board fails to call an annual meeting before the 1st day of November, the secretary-treasurer shall forthwith call such a meeting and shall give notice thereof as provided in subsection 2 of section 11, and shall act as chairman of the meeting notwithstanding that the chairman of the board attends the meeting.

on call of
ten owners

(2) If in any year both the board and the secretary-treasurer fail to call an annual meeting, any ten owners of land in the local roads area may call a meeting as provided in section 7 and may appoint one of their number to act as chairman at the meeting, and such owner shall act as chairman notwithstanding that the chairman of the board attends the meeting.

Expenses
to be a debt

(3) Any expense incurred by an owner in calling or providing for a meeting under subsection 2 shall be deemed to be a debt due and owing to him by the trustees and the secretary-treasurer, who are jointly and severally liable for the debt, and he may bring an action for the recovery of such debt in any court of competent jurisdiction. 1964, c. 56, s. 14.

Financial
statement

15. Upon receipt of notice of an annual meeting, the Minister shall cause to be prepared a statement of the moneys credited to the account of the board during the period since the last such

statement and of the expenditures charged against the account for the same period, and shall send such statement to the secretary-treasurer at least three days before the date of the annual meeting. 1964, c. 56, s. 15.

- 16.**—(1) Where it is proposed that, Alteration
of
boundaries
or local
roads
- (a) the boundaries of a local roads area be altered;
 - (b) any local road be added to or removed from a local roads area; or
 - (c) any local road included in a local roads area be extended,

the proposal shall be put to a vote at an annual meeting, and the notice of such annual meeting shall outline the proposal.

(2) Where it is proposed that a local roads area be enlarged, in Notices addition to the notice required under subsection 1, the secretary-treasurer shall post within the new area that is proposed to be added to the existing local roads area notices of the proposal, setting forth a description or illustration of the boundaries of the new area and the place, date and time of the annual meeting, and all owners of land in the new area may attend the annual meeting and vote upon the proposal.

(3) Where it is proposed that the boundaries of a local roads Record
of vote area be altered, the secretary-treasurer shall record separately the vote of the owners of land within the area that is proposed to be added to or to be removed from the local roads area.

(4) Where a majority of the owners present at the meeting vote Notification
to
Minister in favour of a proposal made under subsection 1, the secretary-treasurer shall forward to the Minister a copy of the proposal as approved at the meeting, together with a statement of the results of the vote showing the vote of the owners for and against the proposal, and, in the case of a proposal made under clause *a* of subsection 1, the vote of the owners of land in the area that is proposed to be added to or to be removed from an existing area for and against the proposal, and the Minister, if he considers it in the public interest so to do, may by order in writing alter the boundaries of the local roads area or the roads included therein in accordance with the proposal approved at the meeting, or in such other manner as he considers appropriate. 1964, c. 56, s. 16.

17.—(1) Where it is proposed that a board and a local roads Vote on
dissolution area be dissolved, the proposal shall be put to a vote at an annual meeting, and the notice of such annual meeting shall outline the proposal.

(2) Where the majority of owners present at an annual meeting Notification
to Minister approve a proposal that the board and its local roads area be dissolved, the secretary-treasurer shall forthwith forward to the Minister a copy of the proposal, together with a statement of the

vote for and against the proposal, and the Minister, if he considers it in the public interest so to do, may by order in writing dissolve the board and the local roads area.

Dissolution
by Minister

(3) Where a board and its secretary-treasurer fail to call an annual meeting as herein provided and no meeting is called under subsection 2 of section 15, the Minister may by order in writing dissolve the board and the local roads area.

Surplus
funds

(4) Where moneys remain in the account maintained by the Minister to the credit of a board that has been dissolved, the Minister may order the moneys forfeited to the Treasurer of Ontario or he may expend them on the local roads in the former local roads area. 1964, c. 56, s. 17.

Liability
for damages

18. No action shall be brought against the Crown, a board or any trustee elected or appointed under this Act for damage caused by any default in the maintenance of a local road in a local roads area, and neither the Crown nor a board nor any such trustee is liable for any damage sustained by any person using such local road. 1964, c. 56, s. 18.

Land
assessable
and
taxable

19. All land as defined in *The Provincial Land Tax Act* in a local roads area is liable to assessment and taxation under this Act, subject to the exemptions from taxation enumerated in paragraphs 1 to 14 of subsection 1 of section 3 of *The Provincial Land Tax Act*. 1968, c. 67, s. 1.

Land
assessed
under
R.S.O. 1970,
c. 370

20.—(1) The assessment of land in a local roads area under *The Provincial Land Tax Act* shall be the assessment of such lands for the purposes of this Act. 1968, c. 67, s. 2 (1).

Revision
of
assessment

(2) Notwithstanding subsection 1, where the assessment of land in a local roads area is retroactively increased or decreased under *The Provincial Land Tax Act*, the tax paid or to be paid by the owner of such land under this Act shall be adjusted accordingly. 1964, c. 56, s. 20 (2).

Where
land
assessed
under
R.S.O. 1970,
c. 370, 385

(3) Where any taxable land in a local roads area is not assessed under *The Provincial Land Tax Act* but is assessed under *The Public Schools Act*, the assessment under *The Public Schools Act* shall be the assessment of such land for the purposes of this Act.

Other
cases

(4) Where any taxable land in a local roads area is not assessed under *The Provincial Land Tax Act* or under *The Public Schools Act*, such land shall be assessed for taxation purposes under this Act at the following rates:

1. For each dwelling, \$1,000.
2. For each building other than a dwelling, such rate of assessment as may be prescribed.

3. For forested land, \$4 an acre.
4. For cleared land, \$6 an acre.
5. For all other land, \$2 an acre. 1968, c. 67, s. 2 (2).

(5) For the purposes of subsection 4,

Inter-
pretation

- (a) "acre" includes a part of an acre; and
- (b) "dwelling" may include two or more buildings used as a single-dwelling unit. 1964, c. 56, s. 20 (5).

21.—(1) Every board shall levy annually on the whole of the assessment for taxable land in the local roads area a sum equal to the sum estimated by the board to be required for the purposes of the board during the year. 1964, c. 56, s. 21 (1); 1968, c. 67, s. 3. Annual levy

(2) In preparing its estimates, every board shall make due allowance for any surplus of any previous year that will be available in the current year and for any uncollectable taxes and for any moneys to be credited to the board under sections 31 and 32 in the current year. 1964, c. 56, s. 21 (2). Idem

22. The minimum annual tax imposed under this Act in respect of the land of any owner is \$10. 1964, c. 56, s. 22. Minimum
tax

23. The tax levied under this Act in any year becomes due and is payable to the board on the 1st day of June in that year. 1964, c. 56, s. 23. Annual
tax

24.—(1) A tax bill shall be sent by the secretary-treasurer to every owner of land in the local roads area on or before the 1st day of June in the year in which the tax is payable. Tax bill

(2) The tax bill shall show the assessed value of the land, the tax rate, the amount of tax payable and such other matters as are prescribed. 1964, c. 56, s. 24. Idem

25.—(1) The secretary-treasurer shall keep a register, to be known as the Local Roads Tax Register, in which he shall set down the name and address in full of every person in the local roads area assessed and taxed under this Act, a brief description of the land in respect of which such person is taxed, the amount of its assessment and taxation in each year, the amount of taxes paid from time to time, and the balance of unpaid taxes, if any. Local
Roads Tax
Register

(2) The address of an owner in the register, where the owner has given the secretary-treasurer notice in writing of his address, shall be the address in such notice, and, where the owner has not given the secretary-treasurer such a notice, shall be the address for the owner shown in the proper land titles or registry office, as the case may be, for that owner or for the last registered owner of the land. 1964, c. 56, s. 25. Idem

Penalty on
unpaid tax

26.—(1) Where any tax under this Act remains unpaid on the 1st day of August in the year in which it is payable, a penalty of 10 per cent shall be added thereto.

Idem

(2) Where any tax or penalty remains unpaid on the 1st day of August in the year next following the year in which it is payable, a penalty of 10 per cent shall be added thereto, and, where the whole or any part of such tax or penalties remains unpaid on the 1st day of August in any subsequent year, a further penalty of 10 per cent of the taxes and penalties remaining unpaid shall be added thereto.

Idem

(3) Any penalty imposed under this section shall be deemed to be tax due and payable under this Act. 1964, c. 56, s. 26.

Who liable
for taxes

27.—(1) The taxes and penalties due upon any land with costs may be recovered as a debt due to the board from the owner originally assessed therefor and from any subsequent owner of the whole or any part thereof, saving his recourse against any other person, and are a special lien on the land in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority are not lost or impaired by any neglect, omission or error of the board or of any person appointed or assigned to any work in the course of the administration of this Act, or by want of registration.

Action for
recovery of
taxes and
penalties

(2) The secretary-treasurer, with the approval of the board, may bring an action on behalf of and in the name of the board for the recovery of taxes and penalties due upon any lands in any court of competent jurisdiction.

Liability in
respect of
action

(3) Any liability incurred by or on behalf of the board in respect of an action brought by the secretary-treasurer under subsection 2 is a charge against the assets of the board, and no personal liability shall be incurred in respect thereof by the secretary-treasurer or any trustee elected or appointed under this Act. 1964, c. 56, s. 27.

Delivery of
tax bills

28. A tax bill or a notice required to be sent under this Act shall be sent by prepaid first-class mail to the address of the owner or his agent as shown on the register. 1964, c. 56, s. 28.

Billing
joint
owners, etc.

29.—(1) Where land is owned by two or more persons, either jointly or otherwise, a secretary-treasurer may send notices and tax bills issued under this Act to such part-owner as is designated by the other part-owners, and, where the part-owners fail to designate a part-owner for this purpose or where they fail to agree on which part-owner should be designated, a secretary-treasurer may select a part-owner to whom such notices and tax bills may be sent.

(2) Where a secretary-treasurer designates the part-owner to whom such notices and tax bills may be sent, he shall notify the other part-owners of his designation. Idem

(3) Notices and tax bills sent to a part-owner designated under subsection 1 shall be deemed to have been sent to the other part-owners. 1964, c. 56, s. 29. Idem

30. The secretary-treasurer shall remit to the Minister an amount equal to the amount of the tax moneys received by him from the owners of land within the local roads area less the amount required to defray the incidental expenses and administrative costs of himself and of the board. 1964, c. 56, s. 30. Remission
of tax to
Minister

31.—(1) The moneys received by the Minister from a board shall be paid into the Consolidated Revenue Fund and credited to that board, and the Minister shall cause to be credited to that board an amount equal to twice the amount of the moneys so received. Credits

(2) For the purpose of determining the amount to be credited to a board under subsection 1, the moneys paid by a board to its secretary-treasurer under subsection 4 of section 10 shall be deemed to have been received by the Minister. 1964, c. 56, s. 31. Idem

32. In addition to the amounts credited to a board by the Minister under section 31, the Minister may annually credit to a board, in respect of unoccupied Crown land in the local roads area, an amount that the rate levied on lands in the local roads area would produce based on the value of such Crown land, determined at the rate of \$3 for each foot of frontage of such Crown land on a local road included in a local roads area, but such amount shall not exceed twice the amount remitted to the Minister under section 30. 1964, c. 56, s. 32. Credits re
unoccupied
Crown land

33.—(1) The Minister shall cause the moneys credited to each board to be spent on the local roads area in carrying out work determined by the board and approved by him under section 10, or in acquiring right-of-way for roads. Expenditure
of moneys

(2) For any of the purposes of this Act, the Minister may exercise any of his powers under Part I of *The Highway Improvement Act*, including the power to expropriate land. 1964, c. 56, s. 33. Powers
R.S.O. 1970,
c. 201

(3) All land heretofore or hereafter acquired under subsection 2 is vested in the Crown in right of Ontario and is under the jurisdiction and control of the Minister and when no longer required for the purposes of this Act may be sold, leased or otherwise disposed of by the Minister. 1970, c. 108, s. 1. Land vested
in Crown

Audit

34.—(1) A board may engage a licensed public accountant to audit its accounts and transactions, including the account maintained by the Minister, and to make a report to it, and the accountant's fee shall be paid by the Minister out of the moneys held by him to the credit of the board.

Idem

(2) The Minister may at any time cause the accounts and transactions of a board to be audited. 1964, c. 56, s. 34.

Notice of
forfeiture

35.—(1) Where any part of the tax imposed under this Act remains unpaid for a period of two years or more, the board may cause to be filed in the proper land titles or registry office a caution in the prescribed form, and thereupon the secretary-treasurer shall send by registered mail a notice to the owner and to every person appearing from search or inquiry at the proper land titles, registry or sheriff's office to be owner of the land in respect of which the default has been made, and to every person appearing from such search or inquiry to have an interest therein, stating that, unless the total amount of tax and penalties due and payable under this Act and the prescribed costs are paid within twelve months of the mailing of the notice, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown.

Idem

(2) Where no letters patent from the Crown have issued granting land in respect of which the tax imposed under this Act remains unpaid for a period of two years or more, the secretary-treasurer shall send by registered mail the notice mentioned in subsection 1 to the person entered in the register as the owner of the land, and the sending of such notice shall be deemed to be in compliance with subsection 1.

Declaration
of
forfeiture

(3) Where any part of the tax, penalties and costs remains unpaid twelve months after the mailing of the notice under subsection 1 or 2, the secretary-treasurer shall so certify to the Minister of Lands and Forests, and upon receipt of such certificate the Minister of Lands and Forests by a certificate may declare the lands and every interest therein forfeited to and vested in the Crown, and thereupon, subject to subsection 4, the land and every interest therein vest in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture is declared, and the land may be granted, sold, leased or otherwise disposed of in the same manner as public lands may be dealt with under the laws of Ontario.

Easements

(4) Where a dominant tenement is forfeited, any easement appurtenant thereto passes to the Crown, and, where a servient tenement is forfeited, the forfeiture does not affect any easement to which the servient tenement is subject.

(5) Upon receipt of a certificate of forfeiture, the proper master of titles or registrar of deeds shall register it, and it is conclusive evidence of the forfeiture to the Crown of the land and every interest therein so certified to be forfeited, and it is not open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture.

Registration
of
certificate

(6) Upon registration of a certificate of forfeiture in the proper land titles or registry office, *The Land Titles Act* or *The Registry Act*, as the case may be, ceases to apply to the land forfeited, and the registrar or master of titles shall note that fact in his register in red ink. 1964, c. 56, s. 35, *amended*.

R.S.O. 1970,
cc. 234, 409
not to apply
to forfeited
lands

36. Where land has been forfeited to the Crown in error under this Act, the Minister of Lands and Forests, by a certificate under his hand, may annul the forfeiture in so far as it has reference to land forfeited to the Crown in error, and thereupon such land reverts to the owner of the land at the time of forfeiture, his heirs, successors or assigns, subject to any lien, mortgage or charge, as if the forfeiture had never occurred. 1964, c. 56, s. 36.

Land
forfeited
in error

37. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1964, c. 56, s. 37.

Expenses

38. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing forms and providing for their use;
 - (b) prescribing matters, other than those specified in subsection 2 of section 24, that shall be shown on tax bills;
 - (c) prescribing the rate of assessment for buildings, other than dwellings, for the purposes of subsection 4 of section 20;
 - (d) prescribing the costs to be paid under subsection 1 of section 35;
 - (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- 1964, c. 56, s. 38.

39. Where a board is established under this Act, *The Statute Labour Act* shall, on the 1st day of January next following the date of the establishment of the board, cease to apply to the local roads area administered by that board, and, where the local roads area includes all of an area administered by road commissioners elected under *The Statute Labour Act*, the road commissioners shall transfer to the board any assets held by them in their capacity as road commissioners, and, where the local roads area

Transitional
R.S.O. 1970,
c. 445

R.S.O. 1970,
c. 445

includes part of an area administered by road commissioners elected under *The Statute Labour Act*, the road commissioners may transfer to the board any assets held by them in their capacity as road commissioners in respect of such part. 1964, c. 56, s. 39.

CHAPTER 257

The Loggers' Safety Act

1. In this Act,Interpre-
tation

- (a) "logger" means a person who engages in logging and includes an operator and an employee of an operator in the course of his employment on a site on which logging is conducted;
- (b) "logging" means the operation of felling or trimming trees or the measuring, storing, transporting or floating of logs;
- (c) "officer" means the chief officer or any other officer appointed to enforce this Act and the regulations;
- (d) "operator" means a person who engages in logging as an owner, employer, manager, superintendent or partner in such enterprise;
- (e) "regulations" means the regulations made under this Act. 1962-63, c. 76, s. 1; 1965, c. 64, s. 1; 1970, c. 12, s. 1.

2. The administration of this Act is under the control and direction of the member of the Executive Council designated so to do by the Lieutenant Governor in Council. 1965, c. 64, s. 2.

Administra-
tion of Act

3.—(1) Except as provided in the regulations, this Act applies,

Application
of act

- (a) to every person engaged in logging, including logging by the Crown, any agency of the Crown and any municipality as defined in *The Department of Municipal Affairs Act*; and R.S.O. 1970,
c. 118
- (b) to every person engaged in the installation, maintenance, repair or operation of any equipment or device used in logging. 1962-63, c. 76, s. 2 (1).

(2) This Act does not apply to logging being done in person and solely by an individual on his own behalf and for his personal use. 1962-63, c. 76, s. 2. (2); 1970, c. 12, s. 2.

Where Act
does not
apply

4. There shall be an officer known as the chief officer and such other officers as are considered necessary for the administration of this Act. 1965, c. 64, s. 3.

Chief and
other
officers

Power of entry

5. An officer may enter any land, building or other premises at any reasonable hour for the purpose of carrying out his duties under this Act. 1962-63, c. 76, s. 4.

Obstructing officer, false information

6.—(1) No person shall obstruct an officer in the performance of his duties or furnish him with false or misleading information.

Facilitating inspection

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination or inquiry by an officer in the exercise of his powers and the carrying out of his duties under this Act. 1962-63, c. 76, s. 5.

Stop-work orders

7.—(1) Where an officer is of the opinion that any provision of this Act or the regulations is being contravened, he may give to the person whom he believes to be the contravener such order in writing as he considers necessary to ensure compliance with this Act and the regulations, and such order shall specify that it shall be carried out forthwith or before the expiry of such period as is specified therein, and,

- (a) where the order specifies that it be carried out forthwith, all work or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with; or
- (b) where the order specifies the period within which it is to be carried out and it is not carried out within that period, all work or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with.

Penalty

(2) Every person to whom an order of an officer is directed who contravenes or knowingly permits any person under his direction or control to contravene such order or to carry on work in contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 for every day upon which the contravention continues. 1962-63, c. 76, s. 6.

Responsibility of employer

8.—(1) Subject to subsection 2, every operator,

- (a) shall ensure to the best of his ability that every logger in his employ knows and complies with this Act and the regulations, and that a copy or abstract thereof is maintained reasonably available to him; and
- (b) shall take every precaution that is reasonable in the circumstances to ensure his loggers' safety.

Supervision of loggers

(2) Without in any way relieving the operator of his responsibility under subsection 1, every supervisor and foreman shall so

supervise the loggers under his supervision that no such logger works in an unsafe manner or in any unsafe circumstance. 1962-63, c. 76, s. 7.

9.—(1) Every logger shall use the safeguards, equipment and devices furnished for his protection. Responsibility of logger

(2) No person shall move, alter or destroy any safeguard, equipment or device furnished for the protection of a logger without the permission of the operator. Moving, altering, etc., of safeguard

(3) No logger shall use any equipment or device or so conduct himself as to endanger his safety or that of any other person. 1962-63, c. 76, s. 8. Responsibility of logger

10.—(1) Where an accident, industrial disease, explosion or fire causes bodily injury to a logger whereby he is prevented or is likely to be prevented from working beyond the day of the occurrence, a notice of the occurrence in the prescribed form shall be delivered or mailed to the chief officer by the operator. 1970, c. 12, s. 3 (1). Notice of accidents

(2) Such notice shall be delivered or mailed by the operator within three days after he learns of an occurrence mentioned in subsection 1. 1970, c. 12, s. 3 (2). When notice to be sent

(3) A true copy of the notice mentioned in section 115 of *The Workmen's Compensation Act* may be delivered or mailed to the chief officer in lieu of the prescribed form mentioned in subsection 1. 1962-63, c. 76, s. 9 (3). Alternative notice R.S.O. 1970, c. 505

11.—(1) Where a logger is killed or hospitalized through injury, Fatal accidents and critical injuries

(a) the operator shall forthwith notify an officer by telephone, telegram or other direct means of the occurrence, and shall, within forty-eight hours after the occurrence, send him a written report of the circumstances of the occurrence; and

(b) no person shall, except for the purpose of saving life or relieving human suffering, interfere with, disturb, destroy or carry away, or alter any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do is given by an officer. 1962-63, c. 76, s. 10 (1); 1970, c. 12, s. 4.

(2) Clause b of subsection 1 does not apply where the occurrence took place on a public highway or private road and was investigated by a constable or other police officer. 1962-63, c. 76, s. 10 (2). Where subs. 1, cl. b, does not apply

Renting,
etc., of
logging
equipment

12. No person shall provide any machine, vehicle, tool or any equipment or any part thereof for use by a logger under any rental, leasing or other arrangement if the machine, vehicle, tool, equipment or part is in an unsafe condition. 1962-63, c. 76, s. 11.

Minimum
age of
logger

13. No person under the age of sixteen years shall be employed in logging. 1962-63, c. 76, s. 12.

General
penalty

14. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for such offence is not otherwise provided, is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than twelve months, or to both. 1962-63, c. 76, s. 13, *amended*.

Regulations

15.—(1) The Lieutenant Governor in Council may make such regulations as in his opinion are necessary or advisable to ensure the safety of loggers.

Idem

(2) Without limiting the generality of subsection 1, the Lieutenant Governor in Council may make regulations,

- (a) exempting defined classes of logging from this Act or any designated part thereof;
 - (b) providing for and prescribing fees;
 - (c) defining any expression used in this Act;
 - (d) requiring and prescribing the notices in one or more languages that shall be posted by operators;
 - (e) prescribing the records that shall be kept by operators;
 - (f) prescribing forms and providing for their use. 1962-63, c. 76, s. 14.
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CHAPTER 258

The Logging Tax Act

1. In this Act,Interpre-
tation

- (a) "logging operations" includes the sale of standing timber, the sale of the right to cut standing timber, the sale of logs, the delivery of logs to a sawmill, pulp or paper plant or other place for processing or manufacturing, the delivery of logs to a carrier for export, the export of logs, the acquisition of standing timber, the acquisition of the right to cut standing timber, the cutting of logs from standing timber, the acquisition of logs, the import of logs, and the transportation of logs, or any combination of such operations;
- (b) "Minister" means the Minister of Revenue;
- (c) "taxation year" means the calendar year or, where the fiscal year of the taxpayer does not coincide with the calendar year, the fiscal year ending within the calendar year;
- (d) "taxpayer" means an individual, partnership, association, syndicate or corporation that engages in logging operations in Ontario, and includes the heirs, executors, administrators, trustees and agents, as the case may be, of any of them;
- (e) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 224, s. 1, *amended*.

2.—(1) Every taxpayer shall for every taxation year pay a tax of 10 per cent on the income in excess of \$10,000 that he derives during such year from logging operations. R.S.O. 1960, c. 224, s. 2 (1); 1962-63, c. 77, s. 1 (1). Tax

(2) There may be deducted from the tax otherwise payable by a taxpayer under this section for a taxation year an amount equal to 10 per cent of that portion of his income from logging operations in excess of \$10,000 that is earned in the taxation year outside Ontario. R.S.O. 1960, c. 224, s. 2 (2); 1962-63, c. 77, s. 1 (2). Deduction
from tax

(3) The amount of income that shall be deemed to be earned outside Ontario for a taxation year is the total of, Allocation
of income

- (a) that proportion of the difference between the income

derived from logging operations by the taxpayer for the taxation year and the total of,

- (i) the difference between the amount for which the taxpayer sold standing timber during the taxation year and the cost of acquisition thereof, and
- (ii) the difference between the amount for which the taxpayer sold the right to cut standing timber during the taxation year and the cost of acquisition thereof,

that the quantity of logs cut or acquired by the taxpayer outside Ontario is of the total quantity of logs cut or acquired by the taxpayer during the taxation year; and

- (b) the difference between the amount for which the taxpayer sold standing timber situated outside Ontario during the taxation year and the cost of acquisition thereof; and
- (c) the difference between the amount for which the taxpayer sold the right to cut standing timber situated outside Ontario during the taxation year and the cost of acquisition thereof. R.S.O. 1960, c. 224, s. 2 (3).

Operations
by same
taxpayer

(4) For the purposes of determining liability to taxation under this Act, all logging operations owned, leased, worked or operated by the same taxpayer, or the income from which accrues to the same taxpayer, shall be deemed to be and be dealt with as one and the same logging operation and not as separate logging operations.

Affiliated
corporations

(5) Where logging operations are carried on by two or more affiliated or associated corporations that are under the same general control, or where the income of such corporations accrues for the benefit of substantially the same shareholders, the income derived from the logging operations by each of such corporations shall be determined in accordance with sections 3 and 4, and the incomes thereof, after having been so determined, shall be combined and dealt with for the purpose of section 2 as though they were the income of one and the same taxpayer. 1962-63, c. 77, s. 1 (3).

Interpre-
tation

3. In this Act, "income derived from logging operations" means the net profit or gain of the taxpayer during the taxation year determined by deducting from the value of the logs disposed of, the total cost to him of,

- (a) the acquisition of standing timber;
- (b) the acquisition of the right to cut standing timber;
- (c) cutting logs from standing timber;
- (d) the acquisition of logs;

- (e) the import of logs; and
- (f) the transportation of logs,

but excluding from such total cost any amount withdrawn by any individual or any member of a partnership, syndicate or association as salary or other remuneration if such individual, partnership, syndicate or association is a taxpayer. R.S.O. 1960, c. 224, s. 3.

4. In this Act, “value of logs disposed of” means,

Interpre-
tation

- (a) in the case of the sale of standing timber, the amount for which the taxpayer sold it;
- (b) in the case of the sale of the right to cut standing timber, the amount for which the taxpayer sold such right whether on a stumpage, royalty or other basis used in calculating such amount;
- (c) in the case of the sale of logs, the amount for which the taxpayer sold them;
- (d) in the case of the delivery of logs to a sawmill, pulp or paper plant or place for processing logs operated by the taxpayer wherein the logs are processed or manufactured into a product, the difference between,
 - (i) the sale value of such product,

and the total of,

- (ii) the cost of such processing or manufacturing, including capital cost allowances with respect to machinery, equipment, plant, buildings, works and improvements used therein and all charges relating to such processing or manufacturing except amounts withdrawn by any individual or any member of a partnership, syndicate or association as salary or other remuneration if such individual or partnership, syndicate or association is a taxpayer and except taxes payable under this Act, that would be deductible in computing the income of the taxpayer from such processing or manufacturing under Divisions A and B of Part III of *The Corporations Tax Act* and the regulations made thereunder if those Divisions were applicable to the taxpayer, and

R.S.O. 1970,
c. 91

- (iii) an amount by way of return of capital employed by the taxpayer in processing or manufacturing logs equal to 8 per cent of the original cost to him of the depreciable assets used by him in such processing or manufacturing, including machinery, equipment, plant, buildings, works and improvements, but such amount shall not be less than 35 per cent or

R.S.O. 1970,
c. 91

more than 65 per cent of an amount equal to the difference between the income derived by him from all sources, measured in accordance with Divisions A and B of Part III of *The Corporations Tax Act* but before the deduction under that Act of any tax payable under this Act, and the total of,

- (A) the returns received by him by way of dividends, interest or other like payments from stocks, shares, debentures, loans or other like investments, and
- (B) the net profit, if any, derived by him from and attributable in accordance with sound accounting principles to the carrying on of any business or derived from and so attributable to any source other than logging operations and the processing or manufacturing of logs, and
- (C) the net profit, if any, derived by him under clauses *a*, *b* and *c*,

and, whether such processing or manufacturing is within or outside Ontario,

- (iv) the cost of transportation of the logs from the point of delivery to a carrier to the point of delivery to the sawmill, pulp or paper plant or other place used for the processing or manufacturing of the logs.
- R.S.O. 1960, c. 224, s. 4; 1962-63, c. 77, s. 2.

Inadequate
considera-
tion

5.—(1) Where a taxpayer purchases anything from a person with whom he is not dealing at arm's length at a price in excess of the fair market value, the fair market value thereof shall, for the purpose of computing the income of the taxpayer under sections 3 and 4, be deemed to have been paid or to be payable therefor.

Idem

(2) Where a taxpayer sells anything to a person with whom he is not dealing at arm's length at a price less than the fair market value, the fair market value thereof shall, for the purpose of computing the income of the taxpayer under sections 3 and 4, be deemed to have been received or to be receivable therefor.

Idem

(3) Where a taxpayer pays or agrees to pay to a person with whom he is not dealing at arm's length as price, royalty, rental or other payment for use or reproduction of any property an amount computed at a rate higher than that at which similar payments by other persons in the same kind of business are computed, an amount computed at the rate at which similar payments are made by such other persons shall, for the purpose of computing the income of the taxpayer under sections 3 and 4, be deemed to have been the amount that is paid or is payable therefor.

(4) Where a taxpayer is an incorporated company and directly Idem or indirectly distributes to its shareholders any of its property either on winding up, or otherwise, for no consideration or for a consideration below the fair market value, if the sale thereof at the fair market value would have increased the income of the taxpayer under sections 3 and 4, it shall be deemed, for the purpose of determining such income, to have sold the property during the taxation year and to have received therefor the fair market value thereof.

(5) For the purpose of this section, Arm's length

- (a) a corporation and a person or one of several persons by whom it is directly or indirectly controlled;
- (b) corporations controlled directly or indirectly by the same person; or
- (c) persons connected by blood relationship, marriage or adoption,

shall, without extending the meaning of the expression "to deal with each other at arm's length", be deemed not to deal with each other at arm's length. R.S.O. 1960, c. 224, s. 5.

6.—(1) A return of the income of each taxpayer for each Return taxation year shall, without notice or demand therefor, be filed with the Minister containing such information as is required,

- (a) in the case of a corporation, by or on behalf thereof, within six months from the end of the taxation year;
- (b) in the case of a person who has died without making the return, by his legal representatives, within six months from the day of death;
- (c) in the case of an estate or trust, within ninety days from the end of the taxation year;
- (d) in the case of any other taxpayer, on or before the 30th day of April in the next year, by that taxpayer or, if he is unable for any reason to file the return, by his guardian, committee or other legal representative; or
- (e) in the case where no person described by clause *a, b, c* or *d* has filed the return, by such person as is required by notice in writing from the Minister to file the return, within such reasonable time as the notice specifies. R.S.O. 1960, c. 224, s. 6 (1), *amended*.

(2) Every person, whether or not he is liable to pay tax under this Act for a taxation year and whether or not he has filed a return under subsection 1, shall upon receipt at any time of a demand therefor in writing from the Minister, file forthwith with the Minister a return of his income for that year, containing such information as is required. R.S.O. 1960, c. 224, s. 6 (2), *amended*. Demand for return

Trustees,
etc.

(3) Every trustee in bankruptcy, assignee, liquidator, receiver, trustee or committee and every agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of a taxpayer who has not filed a return for a taxation year as required by this section shall file a return of the income of such taxpayer for that year.

Death of a
partner or
proprietor

(4) Where a taxpayer who is a partner in or who is a proprietor of a business engaged in logging operations in Ontario died after the close of a taxation year but before the end of the calendar year in which the taxation year closed, a separate return of the taxpayer's income after the close of the taxation year to the time of death shall be filed and the tax payable under this Act shall be paid thereon as if that income were the income of another taxpayer. R.S.O. 1960, c. 224, s. 6 (3, 4).

Extension

(5) The Minister may at any time extend the time for making a return under this Act. R.S.O. 1960, c. 224, s. 6 (5), *amended*.

Estimate
of tax

7. Every taxpayer required by section 6 to file a return shall estimate in the return the amount of tax payable. R.S.O. 1960, c. 224, s. 7.

Assessment
of tax

8.—(1) The Minister shall, with all due despatch, examine each return and assess the tax for the taxation year and the interest and penalties, if any, payable.

Notice of
assessment

(2) After examination of a return, the Minister shall send a notice of assessment to the person by whom the return was filed.

Liability for
tax not
affected

(3) Liability for tax under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Reassess-
ment, etc.

(4) The Minister, may, at any time, assess tax, interest or penalties and may,

(a) at any time, if the taxpayer or person filing the return has made any misrepresentation or committed any fraud in filing the return or supplying information under this Act; and

(b) within six years from the day of an original assessment in any other case,

reassess or make additional assessments.

Minister
not bound
by return

(5) The Minister is not bound by a return or information supplied by or on behalf of a taxpayer and, in making an assessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Act.

(6) An assessment shall, subject to being varied or vacated on appeal under this Act and subject to reassessment, be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1960, c. 224, s. 8, *amended*.

Errors,
etc.

9.—(1) The taxes imposed by this Act shall be deemed to be due on the last day of the taxation year of the taxpayer for which such taxes are imposed.

Taxes,
when to
accrue

(2) Every taxpayer on which a tax is imposed by this Act shall pay,

Dates of
payment

- (a) not later than the close of the taxation year in respect of which the tax is payable, an amount equal to one-half of the tax as estimated by him for the last preceding taxation year or for the taxation year in respect of which the tax is payable, at the rate applicable for such last-mentioned taxation year;
- (b) not later than the fifteenth day of the third month following the month in which the taxation year in respect of which the tax is payable closed, an amount equal to the balance of the tax as so estimated; and
- (c) at the time of making the return under subsection 1 of section 6, the balance, if any, of the tax payable as estimated by the taxpayer in the return.

(3) Where the amount paid on account of tax payable by a taxpayer for a taxation year before the expiration of the time allowed for filing his return under section 6 is less than the amount of tax payable for the taxation year, the taxpayer liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return to the date of payment at the rate of 6 per cent per annum.

Interest on
unpaid tax

(4) Where a taxpayer being required by subsection 2 to pay a part or instalment of tax has failed to pay all or any part thereof as required, the taxpayer, in addition to the interest payable under subsection 3, shall pay interest on the amount he failed to pay at 6 per cent per annum from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he became liable to pay interest thereon under subsection 3, whichever is earlier.

Idem

(5) For the purposes of subsection 4, the taxpayer shall be deemed to have been liable to pay a part or instalment under subsection 2 computed by reference to the tax payable for,

Idem

- (a) the last preceding taxation year; or
- (b) the taxation year in respect of which the tax is payable,

whichever is lesser.

**Limitation
on interest**

(6) No interest under this section upon the amount by which the unpaid tax exceeds the amount estimated under section 7 is payable in respect of the period beginning twenty months after the day fixed by section 6 for filing the return with respect to which the taxes are payable or twenty months after the return was in fact filed, whichever was later, and ending thirty days from the date of the mailing of the notice of the original assessment for the taxation year. R.S.O. 1960, c. 224, s. 9.

**Penalty for
default**

10.—(1) When a taxpayer is in default in complying with subsection 1 of section 6, he is liable to a penalty of,

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be filed, if the tax payable by him for the taxation year that was unpaid at that time was less than \$10,000; and
- (b) \$500, if at the time the return was required to be filed, tax payable by him for the taxation year of \$10,000 or more was unpaid.

Idem

(2) When a taxpayer fails to complete the information required on the return under subsection 1 of section 6, he is liable to a penalty of 1 per cent of the tax payable by him, but in no such case shall the penalty be less than \$1 or more than \$20. R.S.O. 1960, c. 224, s. 10.

**Payments
on behalf
of others**

11.—(1) Every person required by section 6 to file a return for a taxpayer for a taxation year shall, within thirty days from the date of mailing of the notice of assessment, pay all taxes, penalties and interest payable by or in respect of that taxpayer to the extent that he has or had, at any time since the taxation year, in his possession or control, property belonging to that taxpayer or his estate and shall thereupon be deemed to have made that payment on behalf of the taxpayer. R.S.O. 1960, c. 224, s. 11 (1).

**Certificate
before dis-
tribution**

(2) Every assignee, liquidator, administrator, executor and other like person, other than a trustee in bankruptcy, before distributing any property under his control, shall obtain a certificate from the Minister certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property. R.S.O. 1960, c. 224, s. 11 (2), *amended*.

Liability

(3) Distribution of property without a certificate required by subsection 2 renders the person required to obtain the certificate personally liable for the unpaid taxes, interest and penalties. R.S.O. 1960, c. 224, s. 11 (3).

Refunds

12.—(1) The Minister may, upon mailing the notice of assessment, refund, without application therefor, any overpayment made on account of the tax and he shall make such refund after

mailing the notice of assessment if application in writing is made therefor by the taxpayer within twelve months from the date the overpayment was made or the day on which the notice of assessment was sent.

(2) Instead of making a refund that might otherwise be made under this section, the Minister may, where the taxpayer is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the taxpayer of that action. R.S.O. 1960, c. 224, s. 12 (1, 2), *amended*. Application to other taxes

(3) Where an amount of \$50 or more in respect of an overpayment is refunded or applied on other liability under this section, interest shall be paid or applied for the period commencing, Interest on over-payment

- (a) six months from the day when the overpayment arose;
- (b) on the day on or before which the return in respect of which the tax was paid was required to be filed; or
- (c) on the day that the return was in fact filed,

whichever was later, and ending with the day of refunding or application aforesaid at the rate of 3 per cent per annum.

(4) For the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax minus all amounts payable under this Act or an amount so paid when no amount is so payable. R.S.O. 1960, c. 224, s. 12 (3, 4). Interpretation

13.—(1) Every taxpayer shall keep records and books of account at his place of business or at such other place as is designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act to be determined. Records and books

(2) Where a taxpayer has failed to keep adequate records and books of account for the purposes of this Act, the Minister may require him to keep such records and books of account as he specifies and the taxpayer shall thereafter keep records and books of account as so required. Idem

(3) Every taxpayer required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book. R.S.O. 1960, c. 224, s. 13, *amended*. Idem

14.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on or any property is kept or Investigation

anything is done in connection with any business or any books or records are, or should be, kept pursuant to this Act, and

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the taxpayer or manager of the property or business being examined and any other person on the premises or place to give him all reasonable assistance with his audit or examination and to answer all proper questions relating to the audit or examination either orally or, if he so requires, in writing on oath or by statutory declaration and, for that purpose, require the taxpayer or other person to attend at the premises or place with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act, seize and take away any of the books, records, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Demand for
information,
etc.

(2) The Minister may, for the purposes related to the administration or enforcement of this Act, by registered mail or by demand served personally, require from any person,

- (a) any information or additional information, including a return or a supplementary return; or
- (b) production or production on oath of any books, letters, accounts, invoices, financial or other statements or other documents,

within such times as are stipulated therein.

Inquiry

(3) The Minister may authorize any person to make such inquiry as the Minister considers necessary with reference to anything relating to the administration or enforcement of this Act.

Copies

(4) Where any book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Department of Revenue may make or cause to be made one or

more copies thereof and the document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way. R.S.O. 1960, c. 224, s. 14 (1-4), *amended*.

(5) No person shall hinder or molest or interfere with any person doing anything that he is authorized by or pursuant to this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall do everything he is required by or pursuant to this section to do. Compliance

(6) For the purpose of an inquiry under subsection 3, the person authorized to make the inquiry has all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1960, c. 224, s. 14 (5, 6). Powers
R.S.O. 1970,
c. 379

15.—(1) Any taxpayer who objects to an assessment under this Act may, within sixty days from the date of the mailing of the notice of assessment, by himself or by his solicitor, serve a notice of appeal on the Minister. Notice of
appeal

(2) The notice of appeal shall be served by sending it by registered mail addressed to the Minister. R.S.O. 1960, c. 224, s. 16 (1, 2), *amended*. Service

(3) The notice of appeal shall follow Form 1 to this Act as closely as may be and shall set out clearly the reasons for appeal and all facts relative thereto. R.S.O. 1960, c. 224, s. 16 (3). Form of
notice of
appeal

16. Upon receipt of the notice of appeal, the Minister shall duly consider it, affirm or amend the assessment appealed against, and notify the appellant of his decision by registered mail. R.S.O. 1960, c. 224, s. 17, *amended*. Decision
of the
Minister

17.—(1) If the appellant, after receipt of the decision, is dissatisfied therewith, he may, within sixty days from the date of the mailing of the decision, send to the Minister by registered mail a notice of dissatisfaction. R.S.O. 1960, c. 224, s. 18 (1), *amended*. Notice of
dissatis-
faction

(2) The notice of dissatisfaction shall follow Form 2 to this Act as closely as may be and shall state that the appellant desires that his appeal be set down for trial. Form of
notice of
dissatis-
faction

(3) The appellant shall forward with the notice of dissatisfaction a final statement of such further facts, statutory provisions and reasons that he intends to submit to the court in support of the appeal as were not included in the notice of appeal, or in the Statement
with notice

alternative, a recapitulation of all facts, statutory provisions and reasons included in the notice of appeal, together with such further facts, provisions and reasons as the appellant intends to submit to the court in support of the appeal. R.S.O. 1960, c. 224, s. 18 (2, 3).

Security

18.—(1) The appellant shall thereupon give security in the sum of \$400 or such other sum as the Minister requires for the costs of the appeal in a form satisfactory to the Minister, but in lieu of other security the appellant may pay into court the sum of \$200 or such other sum as the Minister requires, in which case the appellant shall, when paying such sum in, state the purpose for which it is paid in and shall forthwith serve a notice on the Minister specifying the fact and purpose of the payment. R.S.O. 1960, c. 224, s. 19 (1), *amended*.

Proceedings
voided

(2) Unless such security is furnished by the appellant within thirty days after the mailing of the notice of dissatisfaction, the appeal and all proceedings thereunder are void. R.S.O. 1960, c. 224, s. 19 (2).

Decision
upon
receipt of
statement
of facts

19. Upon receipt of the notice of dissatisfaction and statement of facts, the Minister shall send by registered mail to the appellant a reply admitting or denying the facts alleged and confirming or amending the assessment or any amended, additional or subsequent assessment. R.S.O. 1960, c. 224, s. 20, *amended*.

Copy of
documents
to be filed

20.—(1) Within sixty days from the date of the mailing of the reply, the Minister shall cause to be transmitted to the Registrar of the Supreme Court or the local registrar of the court for the county or district in which the appellant has his office or transacts business, to be filed in the court, copies of,

- (a) the return of the appellant, if any, for the taxation year under review;
- (b) the notice of assessment appealed;
- (c) the notice of appeal;
- (d) the decision;
- (e) the notice of dissatisfaction;
- (f) the reply; and
- (g) all other documents and papers relative to the assessment under appeal. R.S.O. 1960, c. 224, s. 21 (1), *amended*.

Matter
deemed
action

(2) The matter shall thereupon be deemed to be an action in the court and shall be set down for trial forthwith by the Registrar or local registrar, as the case may be, and thereafter shall be proceeded with in the same manner as an action commenced in the court, but the court or a judge may at any time before the

commencement of the trial make such other order relating to the delivery of pleadings as is considered proper.

(3) The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every such action, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1960, c. 224, s. 21 (2, 3).

Supreme Court practice to govern

21. All subsequent proceedings shall be entitled:

Title of cause

In re *The Logging Tax Act* and the appeal of
..... of in the
Province of

and notice and copies of all further proceedings shall be served on the Minister. R.S.O. 1960, c. 224, s. 22, *amended*.

22.—(1) After an appeal has been set down for trial, any fact or statutory provision not set out in the notice of appeal or notice of dissatisfaction may be pleaded or referred to in such manner and upon such terms as the court or a judge thereof directs. R.S.O. 1960, c. 224, s. 23 (1).

Conditional limitations of evidence

(2) The court may refer the matter back to the Minister for further consideration. R.S.O. 1960, c. 224, s. 23 (2), *amended*.

Matter may be referred back to Minister

23. Subject to this Act, the Supreme Court has exclusive jurisdiction to hear and determine all questions that arise in connection with any assessment made under this Act, and in delivering judgment may make any order as to the payment of any tax, interest or penalty or as to costs as to the court seems right and proper. R.S.O. 1960, c. 224, s. 24.

Jurisdiction of court

24. An assessment shall not be varied or disallowed because of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision up to the date of the issue of the notice of assessment. R.S.O. 1960, c. 224, s. 25.

Irregularities

25. Any such proceedings before the Supreme Court hereunder shall be held *in camera* upon request made to the court by any party to the proceedings. R.S.O. 1960, c. 224, s. 26.

Proceedings in camera

26. If a notice of appeal is not served or a notice of dissatisfaction is not mailed within the time limited therefor, the right of the taxpayer assessed to appeal ceases and the assessment is valid and binding notwithstanding any error, defect or omission therein or in any proceedings required by this Act. R.S.O. 1960, c. 224, s. 27.

Right of appeal barred

Debts to
Her
Majesty

27. All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty in right of Ontario and are recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act. R.S.O. 1960, c. 224, s. 28.

Warrant of
execution

28. Where an amount payable under this Act has not been paid, the Minister may, upon the expiration of thirty days from the default, issue a warrant and may direct it to the sheriff of any county or district in which any property of the taxpayer is located or situated, for the amount of the tax, interest and penalty, or any of them, owing by the taxpayer to the Treasurer, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1960, c. 224, s. 29, *amended*.

Garnish-
ment

29.—(1) When the Minister has knowledge or suspects that any person is or is about to become indebted or liable to make any payment to a taxpayer liable to make a payment under this Act, he may, by registered letter, require him to pay the moneys otherwise payable to that taxpayer in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Idem

(3) Every person who has discharged any liability to a taxpayer liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is lesser. R.S.O. 1960, c. 224, s. 30, *amended*.

Priority
of tax

30. All taxes, interest, penalties, costs and other amounts payable under this Act are a first lien and charge upon the property in Ontario of the taxpayer liable to pay such taxes, interest, penalties, costs and other amounts. R.S.O. 1960, c. 224, s. 31.

Compromise

31. If any doubt or dispute arises as to the liability of any taxpayer to pay a tax or any part of a tax demanded under this Act, or, if owing to special circumstances, it is considered inequitable to demand payment of the whole amount imposed under this Act, the Minister may accept such amount as he considers proper, and if the tax demanded has been paid under protest, he may refund the amount paid or any part thereof. R.S.O. 1960, c. 224, s. 32, *amended*.

32.—(1) Every person who has failed to file a return or any information as and when required by or under this Act is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of \$25 for each day of default. Offences

(2) Every person who has contravened section 13 or 14 is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of not less than \$200 and not more than \$10,000 or to imprisonment for a term of not more than six months, or to both. Idem

(3) Every person, Idem

- (a) who has made, or participated in, assented to or acquiesced in the making of false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act;
- (b) who has, to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a taxpayer;
- (c) who has made, or assented to or acquiesced in the making of false or deceptive entries in records or books of account of a taxpayer;
- (d) who has failed, or assented to or acquiesced in the failure, to enter a material particular in records or books of account of a taxpayer;
- (e) who has wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (f) who has conspired with any person to commit any offence under clauses *a* to *e*,

is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of not less than \$25 and not more than \$10,000 or to imprisonment for a term of not more than two years, or to both. R.S.O. 1960, c. 224, s. 33.

33.—(1) Every person who, while employed in the service of Her Majesty, has communicated or allowed to be communicated to a person not legally entitled thereto any information obtained under this Act, or has allowed any such person to inspect or have access to any written statement furnished under this Act, is guilty of an offence and liable on summary conviction to a fine of not more than \$200. R.S.O. 1960, c. 224, s. 34. Communication of information

(2) Notwithstanding subsection 1, the Minister may, Exception

- (a) communicate or allow to be communicated information obtained under this Act; or

- (b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the Government of Canada or any province of Canada, provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax. 1965, c. 65, s. 1, *amended*.

Declarations

34. Declarations or affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but a person so specially authorized shall not charge a fee therefor. R.S.O. 1960, c. 224, s. 35.

Information

35.—(1) An information under this Act may be laid or made by any officer of the Department of Revenue or by any person thereunto authorized by the Minister and, where an information purports to have been laid under this Act, it shall be deemed to have been laid by a person thereunto authorized by the Minister and shall not be called in question for lack of authority of the informant except by the Minister or by some person acting for him. R.S.O. 1960, c. 224, s. 36 (1), *amended*.

Two or more offences

(2) An information in respect of an offence under this Act may be for one or more than one offence and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1960, c. 224, s. 36 (2).

Limitation of prosecution
1953-54,
c. 51 (Can.)

(3) An information under Part XXIV of the *Criminal Code* (Canada) in respect of an offence under this Act may be laid on or before a day five years from the time when the matter of the information arose or within one year from the day on which evidence, sufficient in the opinion of the Minister to justify a prosecution for the offence, came to his knowledge, and his certificate as to the day on which such evidence came to his knowledge is conclusive evidence thereof.

Proof of service by mail

(4) Where by this Act provision is made for sending by mail a request for information, notice or demand, an affidavit of an officer of the Department of Revenue sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records, that he has knowledge of the facts in the particular case, that such a request, notice or demand was sent by registered letter on a named day to the

person to whom it was addressed, indicating such address, and that he identifies as exhibits attached to the affidavit the post-office certificate of registration of the letter or a true copy of the relevant portion thereof and a true copy of the request, notice or demand, shall be received as *prima facie* evidence of the sending of the request, notice or demand.

(5) Where by this Act a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after a careful examination and search of the records, he has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by such person, shall be received as *prima facie* evidence that in such case that person did not make the return, statement, answer or certificate, as the case may be.

Proof of
failure
to comply

(6) Where by this Act a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that, after careful examination of such records, he has found that the return, statement, answer or certificate was filed or made on a particular day, shall be received as *prima facie* evidence that it was filed or made on that day.

Proof of
time of
compliance

(7) An affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that a document annexed thereto is a document or a true copy of a document made by or on behalf of the Minister or some person exercising the powers of the Minister or by or on behalf of the taxpayer, shall be received as *prima facie* evidence of the nature and contents of the document and is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

Proof of
documents

(8) An affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and has knowledge of the practice of the Department and that an examination of the records shows that a notice of assessment for a particular taxation year was mailed to a taxpayer on a particular day pursuant to this Act and that, after careful examination and search of the records, he has been unable to find that a notice of appeal from the assessment or a notice of objection to the decision of the Minister was received within the time allowed therefor, shall be received as *prima facie* evidence of the statements contained therein.

Proof of
no appeal

Presump-
tion

(9) Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Department of Revenue, it is not necessary to prove his signature or that he is such an officer nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn. R.S.O. 1960, c. 224, s. 36 (3-9), *amended*.

Effect

36. This Act is effective with respect to the taxation years of taxpayers ending in 1949 and subsequent taxation years. R.S.O. 1960, c. 224, s. 37.

FORM 1

(Section 16 (3))

NOTICE OF APPEAL

In re *The Logging Tax Act* and
 (Name of taxpayer)

of the of in the
 (Address)

Province of
 Appellant

Notice of Appeal is hereby given from the assessment bearing date
 the day of 19....., wherein
 a tax of \$..... was levied in respect of income from logging
 operations in Ontario for the taxation of the year 19.....

Then follow with:

1. Full statement of facts.
2. Full statement of reason for appeal.

Dated this day of 19.....

.....
 (Signature of Appellant)

R.S.O. 1960, c. 224, Form 1.

FORM 2

(Section 18 (2))

NOTICE OF DISSATISFACTION

In re *The Logging Tax Act* and the appeal of
 (Name of taxpayer)

of the of in the
 (Address)

Province of

I desire my appeal to be set down for trial.

Dated this day of 19.....

.....
 (Signature)

R.S.O. 1960, c. 224, Form 2.

CHAPTER 259

The Lord's Day (Ontario) Act

1.—(1) Where a by-law passed under this section is in force and subject to its provisions, it is lawful in the municipality or in such part or parts thereof as are specified in the by-law for any person, after 1.30 o'clock in the afternoon of the Lord's Day or during such period or periods of time after 1.30 o'clock in the afternoon of the Lord's Day as are specified in the by-law, to provide, engage in or be present at any public game or sport that is specified in the by-law and which but for this Act would be unlawful under section 6 of the *Lord's Day Act* (Canada), or to do or engage any other person to do any work, business or labour in connection with any such public game or sport which but for this Act would be unlawful under section 4 of the *Lord's Day Act* (Canada). 1960-61, c. 50, s. 1 (1).

Sunday
sports may
be made
lawful

R.S.C. 1952,
c. 171

(2) The council of any city, town, village or township may pass a by-law,

Implement-
ing by-law
authorized

- (a) providing that subsection 1 applies in the municipality or specifying a part or parts of the municipality in which subsection 1 applies;
- (b) providing that subsection 1 applies after 1.30 o'clock in the afternoon of the Lord's Day or specifying the period or periods of time after 1.30 o'clock in the afternoon of the Lord's Day during which subsection 1 applies; and
- (c) specifying the public games and sports to which subsection 1 applies. 1960-61, c. 50, s. 1 (2); 1968, c. 68, s. 1 (1).

(3) Any provision of a by-law under this section may differ in different parts of the municipality and with respect to different public games and sports.

Variation in
by-law
authorized

(4) A by-law under this section shall not specify horseracing as a public game or sport. 1960-61, c. 50, s. 1 (3, 4).

Horse-
racing

2.—(1) In this section, "municipality" means a city, town, village or township and includes a metropolitan municipality but does not include a local municipality in a metropolitan municipality.

Muni-
cipality
defined

(2) The council of a municipality may pass a by-law providing that this section applies in the municipality.

By-laws
authorized

Horse-
racing

R.S.C. 1952,
c. 171

(3) In every municipality in which a by-law passed under subsection 2 is in force, it is lawful for any person after 1.30 o'clock in the afternoon on the Lord's Day to provide, engage in or be present at a horse race that, but for this Act, would be unlawful under section 6 of the *Lord's Day Act* (Canada), or to do or engage any other person to do any work, business or labour in connection with any such horse race which, but for this Act, would be unlawful under section 4 or 6 of the *Lord's Day Act* (Canada). 1968, c. 68, s. 2.

Sunday
movies, etc.,
may be
made lawful

3.—(1) Where a by-law passed under this section is in force and subject to its provisions, it is lawful in the municipality or in such part or parts thereof as are specified in the by-law for any person, after 1.30 o'clock in the afternoon of the Lord's Day or during such period or periods of time after 1.30 o'clock in the afternoon of the Lord's Day as are specified in the by-law, to provide, engage in or be present at any exhibition of moving pictures or any theatrical performance, any concert or any lecture or such of them as are specified in the by-law and which but for this Act would be unlawful under section 6 of the *Lord's Day Act* (Canada), or to do or engage any other person to do any work, business or labour in connection with any such exhibition of moving pictures, theatrical performance, concert or lecture, as the case may be, which but for this Act would be unlawful under section 4 of the *Lord's Day Act* (Canada). 1960-61, c. 50, s. 2 (1).

Implement-
ing by-law
authorized

(2) The council of any city, town, village or township may pass a by-law,

- (a) providing that subsection 1 applies in the municipality or specifying a part or parts of the municipality in which subsection 1 applies;
- (b) providing that subsection 1 applies after 1.30 o'clock in the afternoon of the Lord's Day or specifying the period or periods of time after 1.30 o'clock in the afternoon of the Lord's Day during which subsection 1 applies; and
- (c) specifying that subsection 1 applies to the exhibition of moving pictures, theatrical performances, concerts and lectures or any one or more of them. 1960-61, c. 50, s. 2 (2); 1968, c. 68, s. 3 (1).

Variation
in by-law
authorized

(3) Any provision of a by-law under this section may differ in different parts of the municipality and in respect of the exhibition of moving pictures, theatrical performances, concerts or lectures. 1960-61, c. 50, s. 2 (3).

"Concert"
defined

(4) The expression "concert" in this section does not include a concert of an artistic and cultural nature that is governed by section 5. 1960-61, c. 50, s. 2 (8).

4.—(1) Every by-law under this Act shall provide for the regulation and control of the activities specified therein, and may provide for the regulation and control of any matter or thing in connection therewith. 1960-61, c. 50, s. 4.

Regulation
and control

(2) Part XXI of *The Municipal Act* applies to by-laws passed under subsection 1. 1965, c. 66, s. 1.

Application
of R.S.O.
1970, c. 284
Pt. XXI

5. It is lawful for any person after 1.30 o'clock in the afternoon of the Lord's Day to provide, engage in or be present at any concert, recital or other musical performance of an artistic and cultural nature produced by a non-profit organization at which an admission fee is charged and which but for this Act would be unlawful under section 6 of the *Lord's Day Act* (Canada), or to do or engage any other person to do any work, business or labour in connection with any such concert, recital or other musical performance which but for this Act would be unlawful under section 4 of the *Lord's Day Act* (Canada). 1960-61, c. 50, s. 5.

Sunday
musical
concerts
lawful

R.S.C. 1952,
c. 171

6.—(1) In this section, "municipality" means a city, town, village or township and includes a metropolitan municipality but does not include a local municipality in a metropolitan municipality.

Municipality
defined

(2) The council of a municipality may pass a by-law providing that this section applies in the municipality in respect of such exhibitions or shows referred to in clause *a* of subsection 3 and such activities referred to in clause *b* of subsection 3 as are specified in the by-law.

By-laws
authorized

(3) In every municipality in which a by-law passed under subsection 2 is in force, it is lawful for any person after 1.30 o'clock in the afternoon on the Lord's Day to provide, engage in or be present at,

Agricultural,
horticultural or
trade
exhibitions
or shows

- (a) any exhibition or show that is conducted by any society or association to which *The Agricultural Associations Act*, *The Agricultural Societies Act* or *The Horticultural Societies Act* applies or by any corporation incorporated without share capital by or under any special or general Act or at any trade show or scientific exhibition; and

R.S.O. 1970,
cc. 8, 15, 207

- (b) any activity provided or arranged for by such association, society or corporation in connection therewith,

specified in the by-law and that, but for this Act, would be unlawful under section 4, 6 or 7 of the *Lord's Day Act* (Canada), or to do or employ any other person to do any work, business or labour in connection with any such exhibition, show or activity that, but for this Act, would be unlawful under section 4, 6 or 7 of the *Lord's Day Act* (Canada). 1968, c. 68, s. 5.

When
daylight
saving time
in effect

7. If and so long as the time commonly observed in a municipality in which a by-law under this Act is in force or in which a concert, recital or other musical performance is produced under section 5 is one hour in advance of standard time, the times mentioned in this Act or in a by-law under this Act shall be reckoned in accordance with the time so commonly observed and not standard time. 1960-61, c. 50, s. 6.

Subject to
R.S.O. 1970,
cc. 459, 398

8. This Act and any by-law passed thereunder are subject to *The Theatres Act* and *The Racing Commission Act* and to the regulations made thereunder. 1968, c. 68, s. 6.

Sunday
sports
by-laws
heretofore
passed

9. Any by-law passed under the authority of a predecessor of this Act shall be deemed to have been passed under the authority of this Act. 1960-61, c. 50, s. 8 (2).

CHAPTER 260

The Marine Insurance Act

INTERPRETATION

1. In this Act, unless the context otherwise requires,

Interpre-
tation

- (a) "action" includes a counterclaim and a set-off;
- (b) "freight" includes the profit derivable by a ship-owner from the employment of his ship to carry his own goods or movables, as well as freight payable by a third party, but does not include passage-money;
- (c) "movables" means any movable tangible property, other than the ship, and includes money, valuable securities and other documents;
- (d) "policy" means a marine policy. R.S.O. 1960, c. 227, s. 1.

2. A contract of marine insurance is a contract whereby the insurer undertakes to indemnify the assured, in manner and to the extent thereby agreed, against marine losses, that is to say, the losses incident to marine adventure. R.S.O. 1960, c. 227, s. 2.

Marine
insurance
defined

3.—(1) A contract of marine insurance may, by its express terms or by usage of trade, be extended so as to protect the assured against losses on inland waters or on any land risk that may be incidental to any sea voyage.

Mixed sea
and land
risks

(2) Where a ship in course of building, or the launch of a ship, or any adventure analogous to a marine adventure, is covered by a policy in the form of a marine policy, the provisions of this Act, in so far as applicable, apply thereto; but, except as provided by this section, nothing in this Act alters or affects any rule of law applicable to any contract of insurance other than a contract of marine insurance as defined by this Act. R.S.O. 1960, c. 227, s. 3.

Where Act
applies

4.—(1) Subject to the provisions of this Act, every lawful marine adventure may be the subject of a contract of marine insurance.

Marine
adventure
subject of
contract

(2) In particular there is a marine adventure where,

Marine
adventures
defined

- (a) any ship, goods, or other movables are exposed to maritime perils and such property is in this Act referred to as "insurable property";

- (b) the earning or acquisition of any freight, passage-money, commission, profit, or other pecuniary benefit, or the security for any advances, loan, or disbursements, is endangered by the exposure of insurable property to maritime perils;
- (c) any liability to a third party may be incurred by the owner of, or other person interested in or responsible for, insurable property by reason of maritime perils.

Maritime
perils
defined

(3) "Maritime perils" means the perils consequent on or incidental to the navigation of the sea, that is to say, perils of the seas, fire, war perils, pirates, rovers, thieves, captures, seizures, restraints, and detainments of princes and peoples, jettisons, barratry, and any other perils, either of the like kind or which may be designated by the policy. R.S.O. 1960, c. 227, s. 4.

INSURABLE INTEREST

Wagering or
gaming
contracts
void

5.—(1) Every contract of marine insurance by way of gaming or wagering is void.

What contracts
of marine
insurance
deemed void

(2) A contract of marine insurance is deemed to be a gaming or wagering contract,

- (a) where the assured has not an insurable interest as defined by this Act, and the contract is entered into with no expectation of acquiring such an interest; or
- (b) where the policy is made "interest or no interest", or "without further proof of interest than the policy itself", or "without benefit of salvage to the insurer", or subject to any other like term;

provided that where there is no possibility of salvage, a policy may be effected without benefit of salvage to the insurer. R.S.O. 1960, c. 227, s. 5.

Insurable
interest,

6.—(1) Subject to the provisions of this Act, every person has an insurable interest who is interested in a marine adventure.

defined

(2) In particular a person is interested in a marine adventure where he stands in any legal or equitable relation to the adventure or to any insurable property at risk therein, in consequence of which he may benefit by the safety or due arrival of insurable property, or may be prejudiced by its loss or by damage thereto or by the detention thereof, or may incur liability in respect thereof. R.S.O. 1960, c. 227, s. 6.

When in-
terest must
attach

7.—(1) The assured must be interested in the subject-matter insured at the time of the loss though he need not be interested when the insurance is effected; provided that, where the subject-matter is insured "lost or not lost", the assured may recover although he may not have acquired his interest until after the loss,

unless at the time of effecting the contract of insurance the assured was aware of the loss and the insurer was not.

(2) Where the assured has no interest at the time of the loss, he cannot acquire interest by any act or election after he is aware of the loss. R.S.O. 1960, c. 227, s. 7. Where no interest

8.—(1) A defeasible interest and a contingent interest are insurable. Defeasible or contingent interests

(2) In particular, where the buyer of goods has insured them, he has an insurable interest, notwithstanding that he might, at his election, have rejected the goods, or have treated them as at the seller's risk, by reason of the latter's delay in making delivery or otherwise. R.S.O. 1960, c. 227, s. 8. Buyer of goods

9. A partial interest of any nature is insurable. R.S.O. 1960, c. 227, s. 9. Partial interest

10.—(1) The insurer under a contract of marine insurance has an insurable interest in his risk and may reinsure in respect of it. Reinsurance

(2) Unless the policy otherwise provides, the original assured has no right or interest in respect of such reinsurance. R.S.O. 1960, c. 227, s. 10. Interest of original assured

11. The lender of money on bottomry or respondentia has an insurable interest in respect of the loan. R.S.O. 1960, c. 227, s. 11. Bottomry

12. The master or any member of the crew of a ship has an insurable interest in respect of his wages. R.S.O. 1960, c. 227, s. 12. Master's and seamen's wages

13. In the case of advance freight, the person advancing the freight has an insurable interest, in so far as such freight is not repayable in case of loss. R.S.O. 1960, c. 227, s. 13. Advance freight

14. The assured has an insurable interest in the charges of any insurance that he may effect. R.S.O. 1960, c. 227, s. 14. Charges of insurance

15.—(1) Where the subject-matter insured is mortgaged, the mortgagor has an insurable interest in the full value thereof, and the mortgagee has an insurable interest in respect of any sum due or to become due under the mortgage. Quantum of interest, mortgagor

(2) A mortgagee, consignee, or other person having an interest in the subject-matter insured may insure on behalf and for the benefit of other persons interested as well as for his own benefit. Mortgagee, consignee

(3) The owner of insurable property has an insurable interest in respect of the full value thereof, notwithstanding that some third person may have agreed, or be liable, to indemnify him in case of loss. R.S.O. 1960, c. 227, s. 15. Owner

Assignment
of interest

16. Where the assured assigns or otherwise parts with his interest in the subject-matter insured, he does not thereby transfer to the assignee his rights under the contract of insurance, unless there is an express or implied agreement with the assignee to that effect; but the provisions of this section do not affect a transmission of interest by operation of law. R.S.O. 1960, c. 227, s. 16.

INSURABLE VALUE

Measure of
insurable
value

17. Subject to any express provision or valuation in the policy, the insurable value of the subject-matter insured must be ascertained as follows:

1. In insurance on ship, the insurable value is the value, at the commencement of the risk, of the ship, including her outfit, provisions and stores for the officers and crew, money advanced for seamen's wages, and other disbursements, if any, incurred to make the ship fit for the voyage or adventure contemplated by the policy, plus the charges of insurance upon the whole, and the insurable value, in the case of a steamship, includes also the machinery, boilers, and coals, oils, and engine stores if owned by the assured, and, in the case of a ship engaged in a special trade, the ordinary fittings requisite for that trade.
2. In insurance on freight, whether paid in advance or otherwise, the insurable value is the gross amount of the freight at the risk of the assured, plus the charges of insurance.
3. In insurance on goods or merchandise, the insurable value is the prime cost of the property insured, plus the expenses of and incidental to shipping and the charges of insurance upon the whole.
4. In insurance on any other subject-matter, the insurable value is the amount at the risk of the assured when the policy attaches plus the charges of insurance. R.S.O. 1960, c. 227, s. 17.

DISCLOSURE AND REPRESENTATIONS

Insurance is
uberrimae
fidei

18. A contract of marine insurance is a contract based upon the utmost good faith, and if the utmost good faith is not observed by either party the contract may be avoided by the other party. R.S.O. 1960, c. 227, s. 18.

Disclosure
by assured

19.—(1) Subject to the provisions of this section, the assured must disclose to the insurer before the contract is concluded every material circumstance that is known to the assured, and the assured is deemed to know every circumstance that in the

ordinary course of business ought to be known by him and if the assured fails to make such disclosure the insurer may avoid the contract.

(2) Every circumstance is material that would influence the judgment of a prudent insurer in fixing the premium or determining whether he will take the risk. Material circumstances

(3) In the absence of inquiry the following circumstances need not be disclosed, Circumstances not disclosed

- (a) any circumstance that diminishes the risk;
- (b) any circumstance that is known or presumed to be known to the insurer and the insurer is presumed to know matters of common notoriety or knowledge and matters that an insurer in the ordinary course of his business, as such, ought to know;
- (c) any circumstance as to which information is waived by the insurer;
- (d) any circumstance that it is superfluous to disclose by reason of any express or implied warranty.

(4) Whether any particular circumstance that is not disclosed be material or not is in each case a question of fact. Disclosure question of fact

(5) The term "circumstance" includes any communication made to or information received by the assured. R.S.O. 1960, c. 227, s. 19. Circumstance defined

20. Subject to the provisions of section 19 as to circumstances that need not be disclosed, where an insurance is effected for the assured by an agent, the agent must disclose to the insurer, Disclosure by agent effecting insurance

- (a) every material circumstance that is known to himself, and an agent to insure is deemed to know every circumstance that in the ordinary course of business ought to be known by or to have been communicated to him; and
- (b) every material circumstance that the assured is bound to disclose, unless it comes to his knowledge too late to communicate it to the agent. R.S.O. 1960, c. 227, s. 20.

21.—(1) Every material representation made by the assured or his agent to the insurer during the negotiations for the contract, and before the contract is concluded, must be true and if it be untrue the insurer may avoid the contract. Representations pending negotiation of contract,

(2) A representation is material that would influence the judgment of a prudent insurer in fixing the premium or determining whether he will take the risk. material

(3) A representation may be either a representation as to a matter of fact or as to a matter of expectation or belief. Fact, expectation or belief

fact

(4) A representation as to a matter of fact is true if it is substantially correct, that is to say, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

expectation
or belief

(5) A representation as to a matter of expectation or belief is true if it is made in good faith.

withdrawal

(6) A representation may be withdrawn or corrected before the contract is concluded.

determination
question of
fact

(7) Whether a particular representation be material or not is in each case a question of fact. R.S.O. 1960, c. 227, s. 21.

When con-
tract is
deemed to
be con-
cluded

22. A contract of marine insurance is deemed to be concluded when the proposal of the assured is accepted by the insurer, whether the policy is then issued or not, and for the purpose of showing when the proposal was accepted, reference may be made to the slip or covering note or other customary memorandum of the contract. R.S.O. 1960, c. 227, s. 22.

THE POLICY

Contract
must be
embodied
in policy

23. A contract of marine insurance is inadmissible in evidence unless it is embodied in a marine policy in accordance with this Act and the policy may be executed and issued either at the time when the contract is concluded or afterwards. R.S.O. 1960, c. 227, s. 23.

What policy
must specify

24. A marine policy must specify,

- (a) the name of the assured or of some person who effects the insurance on his behalf;
- (b) the subject-matter insured and the risk insured against;
- (c) the voyage or period of time, or both, as the case may be, covered by the insurance;
- (d) the sum or sums insured; and
- (e) the name or names of the insurers. R.S.O. 1960, c. 227, s. 24.

Signature of
insurer

25.—(1) A marine policy must be signed by or on behalf of the insurer; provided that in the case of a corporation the corporate seal may be sufficient, but nothing in this section shall be construed as requiring the subscription of a corporation to be under seal.

Subscription
by two or more
insurers

(2) Where a policy is subscribed by or on behalf of two or more insurers, each subscription, unless the contrary is expressed, constitutes a distinct contract with the assured. R.S.O. 1960, c. 227, s. 25.

26. Where the contract is to insure the subject-matter at and from, or from one place to another or others, the policy is called a “voyage policy”, and where the contract is to insure the subject-matter for a definite period of time the policy is called a “time policy” and a contract for both voyage and time may be included in the same policy. R.S.O. 1960, c. 227, s. 26.

Voyage and
time
policies

27.—(1) The subject-matter insured must be designated in a marine policy with reasonable certainty.

Designation
of subject-
matter

(2) The nature and extent of the interest of the assured in the subject-matter insured need not be specified in the policy.

Nature and
extent of
interest

(3) Where the policy designates the subject-matter insured in general terms, it shall be construed to apply to the interest intended by the assured to be covered.

Designation in
general terms

(4) In the application of this section regard shall be had to any usage regulating the designation of the subject-matter insured. R.S.O. 1960, c. 227, s. 27.

Usage

28.—(1) A policy may be either valued or unvalued.

Valued policy
or unvalued

(2) A valued policy is a policy that specifies the agreed value of the subject-matter insured.

Valued
policy

(3) Subject to the provisions of this Act, and in the absence of fraud, the value fixed by the policy is, as between the insurer and assured, conclusive of the insurable value of the subject intended to be insured, whether the loss is total or partial.

Value fixed

(4) Unless the policy otherwise provides, the value fixed by the policy is not conclusive for the purpose of determining whether there has been a constructive total loss. R.S.O. 1960, c. 227, s. 28.

Idem

29. An unvalued policy is a policy that does not specify the value of the subject-matter insured, but, subject to the limit of the sum insured, leaves the insurable value to be subsequently ascertained in the manner hereinbefore specified. R.S.O. 1960, c. 227, s. 29.

Unvalued
policy

30.—(1) A floating policy is a policy that describes the insurance in general terms and leaves the name of the ship or ships and other particulars to be defined by subsequent declaration.

Floating
policy by
ship or
ships

(2) The subsequent declaration or declarations may be made by endorsement on the policy or in other customary manner.

Declaration

(3) Unless the policy otherwise provides, the declarations must be made in the order of dispatch or shipment and they must, in the case of goods, comprise all consignments within the terms of the policy, and the value of the goods or other property must be

Idem

honestly stated, but an omission or erroneous declaration may be rectified even after loss or arrival, provided the omission or declaration was made in good faith.

Idem

(4) Unless the policy otherwise provides, where a declaration of value is not made until after notice of loss or arrival, the policy must be treated as an unvalued policy as regards the subject-matter of that declaration. R.S.O. 1960, c. 227, s. 30.

Policy form

31.—(1) A policy may be in the form in the Schedule.

Construction of terms in schedule

(2) Subject to the provisions of this Act, and unless the context of the policy otherwise requires, the terms and expressions mentioned in the Schedule shall be construed as having the scope and meaning in the Schedule assigned to them. R.S.O. 1960, c. 227, s. 31.

Premium to be arranged

32.—(1) Where an insurance is effected at a premium to be arranged, and no arrangement is made, a reasonable premium is payable.

Additional premium

(2) Where an insurance is effected on the terms that an additional premium is to be arranged in a given event, and that event happens but no arrangement is made, then a reasonable additional premium is payable. R.S.O. 1960, c. 227, s. 32.

DOUBLE INSURANCE

Double insurance,

33.—(1) Where two or more policies are effected by or on behalf of the assured on the same adventure and interest or any part thereof, and the sums insured exceed the indemnity allowed by this Act, the assured is said to be over-insured by double insurance.

where over-insured

(2) Where the assured is over-insured by double insurance,

- (a) the assured, unless the policy otherwise provides, may claim payment from the insurers in such order as he may think fit, provided that he is not entitled to receive any sum in excess of the indemnity allowed by this Act;
- (b) where the policy under which the assured claims is a valued policy, the assured must give credit as against the valuation for any sum received by him under any other policy without regard to the actual value of the subject-matter insured;
- (c) where the policy under which the assured claims is an unvalued policy, he must give credit, as against the full insurable value, for any sum received by him under any other policy;
- (d) where the assured receives any sum in excess of the indemnity allowed by this Act, he is deemed to hold such

sum in trust for the insurers, according to their right of contribution among themselves. R.S.O. 1960, c. 227, s. 33.

WARRANTIES, ETC.

34.—(1) A warranty, in the following sections relating to warranties, means a promissory warranty, that is to say, a warranty by which the assured undertakes that some particular thing shall or shall not be done, or that some condition shall be fulfilled, or whereby he affirms or negatives the existence of a particular state of facts. Warranty,
nature of

(2) A warranty may be express or implied.

express or
implied

(3) A warranty as defined in subsection 1 is a condition that must be exactly complied with, whether it be material to the risk or not and if it is not so complied with, then, subject to any express provision in the policy, the insurer is discharged from liability as from the date of the breach of warranty, but without prejudice to any liability incurred by him before that date. R.S.O. 1960, c. 227, s. 34. compliance
with

35.—(1) Non-compliance with a warranty is excused when, by reason of a change of circumstances, the warranty ceases to be applicable to the circumstances of the contract, or when compliance with the warranty is rendered unlawful by any subsequent law. When
breach of
warranty
excused

(2) Where a warranty is broken, the assured cannot avail himself of the defence that the breach has been remedied and the warranty complied with before loss. Where
warranty
broken

(3) A breach of warranty may be waived by the insurer. R.S.O. 1960, c. 227, s. 35. Breach
waived

36.—(1) An express warranty may be in any form of words from which the intention to warrant is to be inferred. Express
warranties,
form

(2) An express warranty must be included in or written upon the policy or must be contained in some document incorporated by reference into the policy. in policy

(3) An express warranty does not exclude an implied warranty unless it is inconsistent therewith. R.S.O. 1960, c. 227, s. 36. implied
warranty not
excluded

37.—(1) Where insurable property, whether ship or goods, is expressly warranted "neutral", there is an implied condition that the property shall have a neutral character at the commencement of the risk, and that, so far as the assured can control the matter, its neutral character shall be preserved during the risk. Warranty of
neutrality

(2) Where a ship is expressly warranted "neutral", there is also an implied condition that, so far as the assured can control the Idem

matter, she shall be properly documented, that is to say, that she shall carry the necessary papers to establish her neutrality, and that she shall not falsify or suppress her papers or use simulated papers and if any loss occurs through breach of this condition, the insurer may avoid the contract. R.S.O. 1960, c. 227, s. 37.

No implied warranty of nationality

38. There is no implied warranty as to the nationality of a ship, or that her nationality shall not be changed during the risk. R.S.O. 1960, c. 227, s. 38.

Warranty of good safety

39. Where the subject-matter insured is warranted "well" or "in good safety" on a particular day, it is sufficient if it is safe at any time during the day. R.S.O. 1960, c. 227, s. 39.

Warranty of seaworthiness of ship

40.—(1) In the voyage policy there is an implied warranty that at the commencement of the voyage the ship shall be seaworthy for the purpose of the particular adventure insured.

Implied warranty

(2) Where the policy attaches while the ship is in port, there is also an implied warranty that she shall at the commencement of the risk be reasonably fit to encounter the ordinary perils of the port.

Idem

(3) Where the policy relates to a voyage that is performed in different stages during which the ship requires different kinds of or further preparation or equipment, there is an implied warranty that at the commencement of each stage the ship is seaworthy in respect of such preparation or equipment for the purposes of that stage.

When ship seaworthy

(4) A ship is deemed to be seaworthy when she is reasonably fit in all respects to encounter the ordinary perils of the seas of the adventure insured.

No implied warranty in time policy

(5) In a time policy there is no implied warranty that the ship shall be seaworthy at any stage of the adventure but where, with the privity of the assured, the ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to unseaworthiness. R.S.O. 1960, c. 227, s. 40.

No implied warranty that goods are seaworthy
Voyage policy on goods

41.—(1) In a policy on goods or other movables there is no implied warranty that the goods or movables are seaworthy.

(2) In a voyage policy on goods or other movables there is an implied warranty that at the commencement of the voyage the ship is not only seaworthy as a ship but also that she is reasonably fit to carry the goods or other movables to the destination contemplated by the policy. R.S.O. 1960, c. 227, s. 41.

Warranty of legality

42. There is an implied warranty that the adventure insured is a lawful one, and that, so far as the assured can control the matter, the adventure shall be carried out in a lawful manner. R.S.O. 1960, c. 227, s. 42.

THE VOYAGE

43.—(1) Where the subject-matter is insured by a voyage policy “at and from” or “from” a particular place, it is not necessary that the ship should be at that place when the contract is concluded, but there is an implied condition that the adventure shall be commenced within a reasonable time and that if the adventure is not so commenced the insurer may avoid the contract.

Implied
condition as
to com-
mencement
of risk

(2) The implied condition may be negated by showing that the delay was caused by circumstances known to the insurer before the contract was concluded or by showing that he waived the condition. R.S.O. 1960, c. 227, s. 43.

When condition
may be
negated

44. Where the place of departure is specified by the policy and the ship, instead of sailing from that place, sails from any other place, the risk does not attach. R.S.O. 1960, c. 227, s. 44.

Alteration of
port of
departure

45. Where the destination is specified in the policy and the ship, instead of sailing for that destination, sails for any other destination, the risk does not attach. R.S.O. 1960, c. 227, s. 45.

Sailing for
different
destination

46.—(1) Where, after the commencement of the risk, the destination of the ship is voluntarily changed from the destination contemplated by the policy, there is said to be a change of voyage.

Change of
voyage

(2) Unless the policy otherwise provides, where there is a change of voyage, the insurer is discharged from liability as from the time of change, that is to say, as from the time when the determination to change it is manifested; and it is immaterial that the ship may not in fact have left the course of voyage contemplated by the policy when the loss occurs. R.S.O. 1960, c. 227, s. 46.

Insurer
discharged
from time
of change

47.—(1) Where a ship, without lawful excuse, deviates from the voyage contemplated by the policy, the insurer is discharged from liability as from the time of deviation and it is immaterial that the ship may have regained her route before any loss occurs.

Deviation

(2) There is a deviation from the voyage contemplated by the policy,

Idem

- (a) where the course of the voyage is specially designated by the policy and that course is departed from; or
- (b) where the course of the voyage is not specifically designated by the policy but the usual and customary course is departed from.

(3) The intention to deviate is immaterial and there must be a deviation in fact to discharge the insurer from his liability under the contract. R.S.O. 1960, c. 227, s. 47.

Intention
immaterial

Several ports
of discharge

48.—(1) Where several ports of discharge are specified by the policy, the ship may proceed to all or any of them, but, in the absence of any usage or sufficient cause to the contrary, she must proceed to them, or such of them as she goes to, in the order designated by the policy, and if she does not there is a deviation.

Idem

(2) Where the policy is to “ports of discharge”, within a given area, which are not named, the ship must, in the absence of any usage or sufficient cause to the contrary, proceed to them, or such of them as she goes to, in their geographical order, and if she does not there is a deviation. R.S.O. 1960, c. 227, s. 48.

Delay in
voyage

49. In the case of a voyage policy, the adventure insured must be prosecuted throughout its course with reasonable dispatch, and, if without lawful excuse it is not so prosecuted, the insurer is discharged from liability as from the time when the delay became unreasonable. R.S.O. 1960, c. 227, s. 49.

Excuses for
deviation
or delay

50.—(1) Deviation or delay in prosecuting the voyage contemplated by the policy is excused,

- (a) where authorized by any special term in the policy; or
- (b) where caused by circumstances beyond the control of the master and his employer; or
- (c) where reasonably necessary in order to comply with an express or implied warranty; or
- (d) where reasonably necessary for the safety of the ship or subject-matter insured; or
- (e) for the purpose of saving human life or aiding a ship in distress where human life may be in danger; or
- (f) where reasonably necessary for the purpose of obtaining medical or surgical aid for any person on board the ship; or
- (g) where caused by the barratrous conduct of the master or crew, if barratry is one of the perils insured against.

Ship to
resume
course when
cause ceases

(2) When the cause excusing the deviation or delay ceases to operate, the ship must resume her course and prosecute her voyage with reasonable dispatch. R.S.O. 1960, c. 227, s. 50.

ASSIGNMENT OF POLICY

Policy
assignable

51.—(1) A marine policy is assignable unless it contains terms expressly prohibiting assignment and it may be assigned either before or after loss.

Effect of
assignment

(2) Where a marine policy has been assigned so as to pass the beneficial interest in such policy, the assignee of the policy is entitled to sue thereon in his own name, and the defendant is entitled to make any defence arising out of the contract that he

would have been entitled to make if the action had been brought in the name of the person by or on behalf of whom the policy was effected.

(3) A marine policy may be assigned by endorsement thereon or in other customary manner. R.S.O. 1960, c. 227, s. 51. How assignable

52. Where the assured has parted with or lost his interest in the subject-matter insured, and has not, before or at the time of so doing, expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy is inoperative; provided that nothing in this section affects the assignment of a policy after loss. R.S.O. 1960, c. 227, s. 52. Assured who has no interest cannot assign

PREMIUM

53. Unless otherwise agreed, the duty of the assured or his agent to pay the premium and the duty of the insurer to issue the policy to the assured or his agent are concurrent conditions, and the insurer is not bound to issue the policy until payment or tender of the premium. R.S.O. 1960, c. 227, s. 53. When premium payable

54.—(1) Unless otherwise agreed, where a marine policy is effected on behalf of the assured by a broker, the broker is directly responsible to the insurer for the premium and the insurer is directly responsible to the assured for the amount that may be payable in respect of losses or in respect of returnable premium. Policy effected through broker

(2) Unless otherwise agreed, the broker has, as against the assured, a lien upon the policy for the amount of the premium and his charges in respect of effecting the policy, and, where he has dealt with the person who employs him as a principal, he has also a lien on the policy in respect of any balance on any insurance account that may be due to him from such person, unless when the debt was incurred he had reason to believe that such person was only an agent. R.S.O. 1960, c. 227, s. 54. Lien on policy

55. Where a marine policy effected on behalf of the assured by a broker acknowledges the receipt of the premium, such acknowledgment is, in the absence of fraud, conclusive as between the insurer and the assured, but not as between the insurer and broker. R.S.O. 1960, c. 227, s. 55. Effect of receipt on policy

LOSS AND ABANDONMENT

56.—(1) Subject to the provisions of this Act and unless the policy otherwise provides, the insurer is liable for any loss proximately caused by a peril insured against, but, subject as aforesaid, he is not liable for any loss that is not proximately caused by a peril insured against. Included and excluded losses

Idem

(2) In particular,

- (a) the insurer is not liable for any loss attributable to the wilful misconduct of the assured, but, unless the policy otherwise provides, he is liable for any loss proximately caused by a peril insured against, even though the loss would not have happened but for the misconduct or negligence of the master or crew;
- (b) unless the policy otherwise provides, the insurer on ship or goods is not liable for any loss proximately caused by delay, although the delay is caused by a peril insured against;
- (c) unless the policy otherwise provides, the insurer is not liable for ordinary wear and tear, ordinary leakage and breakage, inherent vice or nature of the subject-matter insured, or for any loss proximately caused by rats or vermin, or for any injury to machinery not proximately caused by maritime perils. R.S.O. 1960, c. 227, s. 56.

Partial and total loss

57.—(1) A loss may be either total or partial and any loss, other than a total loss as hereinafter defined is a partial loss.

Total loss

(2) A total loss may be either an actual total loss or a constructive total loss.

Idem

(3) Unless a different intention appears from the terms of the policy, an insurance against total loss includes a constructive as well as an actual total loss.

Recovery of partial loss

(4) Where the assured brings an action for a total loss and the evidence proves only a partial loss, he may, unless the policy otherwise provides, recover for a partial loss.

Where goods incapable of identification

(5) Where goods reach their destination in specie, but by reason of obliteration of marks, or otherwise, they are incapable of identification, the loss, if any, is partial and not total. R.S.O. 1960, c. 227, s. 57.

Actual total loss

58.—(1) Where the subject-matter insured is destroyed or so damaged as to cease to be a thing of the kind insured, or where the assured is irretrievably deprived thereof, there is an actual total loss.

Notice of abandonment

(2) In the case of an actual total loss no notice of abandonment need be given. R.S.O. 1960, c. 227, s. 58.

Missing ship

59. Where the ship concerned in the adventure is missing and after the lapse of a reasonable time no news of her has been received, an actual total loss may be presumed. R.S.O. 1960, c. 227, s. 59.

60. Where, by a peril insured against, the voyage is interrupted at an intermediate port or place under such circumstances as, apart from any special stipulation in the contract of affreightment, to justify the master in landing and reshipping the goods or other movables, or in transshipping them, and sending them on to their destination, the liability of the insurer continues notwithstanding the landing or transshipment. R.S.O. 1960, c. 227, s. 60.

Effect of
transship-
ment, etc.

61.—(1) Subject to any express provision in the policy, there is a constructive total loss where the subject-matter insured is reasonably abandoned on account of its actual total loss appearing to be unavoidable or because it could not be preserved from actual total loss without an expenditure that would exceed its value when the expenditure had been incurred.

Constructive
total loss
defined

(2) In particular, there is a constructive total loss,

Idem

(a) where the assured is deprived of the possession of his ship or goods by a peril insured against, and

(i) it is unlikely that he can recover the ship or goods, as the case may be, or

(ii) the cost of recovering the ship or goods, as the case may be, would exceed their value when recovered; or

(b) in the case of damage to a ship, where she is so damaged by a peril insured against that the cost of repairing the damage would exceed the value of the ship when repaired, and in estimating the cost of repairs, no deduction is to be made in respect of general average contributions to those repairs payable by other interests, but account is to be taken of the expense of future salvage operations and of any future general average contributions to which the ship would be liable if repaired; or

(c) in the case of damage to goods, where the cost of repairing the damage and forwarding the goods to their destination would exceed their value on arrival.

R.S.O. 1960, c. 227, s. 61.

62. Where there is a constructive total loss, the assured may either treat the loss as a partial loss or abandon the subject-matter insured to the insurer and treat the loss as if it were an actual total loss. R.S.O. 1960, c. 227, s. 62.

Effect of
abandon-
ment
total loss

63.—(1) Subject to the provisions of this section, where the assured elects to abandon the subject-matter insured to the insurer, he must give notice of abandonment and if he fails to do so the loss can only be treated as a partial loss.

Notice of
abandon-
ment,
required

How
given

(2) Notice of abandonment may be given in writing or by word of mouth, or partly in writing and partly by word of mouth, and may be given in any terms that indicate the intention of the assured to abandon his insured interest in the subject-matter insured unconditionally to the insurer.

Idem

(3) Notice of abandonment must be given with reasonable diligence after the receipt of reliable information of the loss, but where the information is of a doubtful character, the assured is entitled to a reasonable time to make inquiry.

Refusal
to accept

(4) Where notice of abandonment is properly given, the rights of the assured are not prejudiced by the fact that the insurer refuses to accept the abandonment.

Accept-
ance

(5) The acceptance of an abandonment may be either express or implied from the conduct of the insurer and the mere silence of the insurer after notice is not an acceptance.

Irre-
vocable

(6) Where notice of abandonment is accepted, the abandonment is irrevocable and the acceptance of the notice conclusively admits liability for the loss and the sufficiency of the notice.

Where
unneces-
sary

(7) Notice of abandonment is unnecessary where, at the time when the assured receives information of the loss, there would be no possibility of benefit to the insurer if notice were given to him.

Waived

(8) Notice of abandonment may be waived by the insurer.

Where
risk
reinsured

(9) Where an insurer has reinsured his risk, no notice of abandonment need be given by him. R.S.O. 1960, c. 227, s. 63.

Effect of
abandon-
ment

64.—(1) Where there is a valid abandonment, the insurer is entitled to take over the interest of the assured in whatever may remain of the subject-matter insured and all proprietary rights incidental thereto.

Idem

(2) Upon the abandonment of a ship, the insurer thereof is entitled to any freight in course of being earned and which is earned by her subsequent to the casualty causing the loss, less the expenses of earning it incurred after the casualty, and, where the ship is carrying the owner's goods, the insurer is entitled to a reasonable remuneration for the carriage of them subsequent to the casualty causing the loss. R.S.O. 1960, c. 227, s. 64.

PARTIAL LOSSES (INCLUDING SALVAGE AND GENERAL AVERAGE AND PARTICULAR CHARGES)

Particular
average loss

65.—(1) A particular average loss is a partial loss of the subject-matter insured, caused by a peril insured against, and which is not a general average loss.

Particular
charges

(2) Expenses incurred by or on behalf of the assured for the safety or preservation of the subject-matter insured, other than general average and salvage charges, are called particular charges

and particular charges are not included in particular average. R.S.O. 1960, c. 227, s. 65.

66.—(1) Subject to any express provision in the policy, salvage charges incurred in preventing a loss by perils insured against may be recovered as a loss by those perils. Salvage charges, recoverable

(2) “Salvage charges” means the charges recoverable under maritime law by a salvor independently of contract but do not include the expenses of services in the nature of salvage rendered by the assured or his agents or any person employed for hire by them for the purpose of averting a peril insured against, and such expenses, where properly incurred, may be recovered as particular charges or as a general average loss according to the circumstances under which they were incurred. R.S.O. 1960, c. 227, s. 66. defined

67.—(1) A general average loss is a loss caused by or directly consequential on a general average act and it includes a general average expenditure as well as a general average sacrifice. General average loss

(2) There is a general average act where any extraordinary sacrifice or expenditure is voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the property imperilled in the common adventure. General average act

(3) Where there is a general average loss, the party on whom it falls is entitled, subject to the conditions imposed by maritime law, to a rateable contribution from the other parties interested, and such contribution is called a general average contribution. General average contribution

(4) Subject to any express provision in the policy, where the assured has incurred a general average expenditure, he may recover from the insurer in respect of the proportion of the loss that falls upon him; and, in the case of a general average sacrifice, he may recover from the insurer in respect of the whole loss without having enforced his right of contribution from the other parties liable to contribute. General average expenditure, sacrifice

(5) Subject to any express provision in the policy, where the assured has paid, or is liable to pay, a general average contribution in respect of the subject insured, he may recover therefor from the insurer. General average contribution, recovery

(6) In the absence of express stipulation, the insurer is not liable for any general average loss or contribution where the loss was not incurred for the purpose of avoiding, or in connection with the avoidance of, a peril insured against. Where insurer not liable for loss

(7) Where ship, freight, and cargo, or any two of those interests, are owned by the same assured, the liability of the insurer in respect of general average losses or contributions is to be determined as if those subjects were owned by different persons. R.S.O. 1960, c. 227, s. 67. Where two interests owned by assured

MEASURE OF INDEMNITY

Extent of
liability of
insurer for
loss

68.—(1) The sum that the assured can recover in respect of a loss on a policy by which he is insured, in the case of an unvalued policy to the full extent of the insurable value, or in the case of a valued policy to the full extent of the value fixed by the policy, is called the measure of indemnity.

Idem

(2) Where there is a loss recoverable under the policy, the insurer, or each insurer if there is more than one, is liable for such proportion of the measure of indemnity as the amount of his subscription bears to the value fixed by the policy in the case of a valued policy or to the insurable value in the case of an unvalued policy. R.S.O. 1960, c. 227, s. 68.

Total loss

69. Subject to the provisions of this Act and to any express provision in the policy, where there is a total loss of the subject-matter insured,

- (a) if the policy is a valued policy, the measure of indemnity is the sum fixed by the policy;
- (b) if the policy is an unvalued policy, the measure of indemnity is the insurable value of the subject-matter insured. R.S.O. 1960, c. 227, s. 69.

Partial loss
of ship

70. Where a ship is damaged but is not totally lost, the measure of indemnity, subject to any express provision in the policy, is as follows:

1. Where the ship has been repaired, the assured is entitled to the reasonable cost of the repairs, less the customary deduction, but not exceeding the sum insured in respect of any one casualty.
2. Where the ship has been only partially repaired, the assured is entitled to the reasonable cost of such repairs, computed as above, and also to be indemnified for the reasonable depreciation, if any, arising from the unrepaired damage, provided that the aggregate amount shall not exceed the cost of repairing the whole damage, computed as above.
3. Where the ship has not been repaired and has not been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing such damage, computed as above. R.S.O. 1960, c. 227, s. 70.

Partial loss
of freight

71. Subject to any express provision in the policy, where there is a partial loss of freight, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued

policy, or of the insurable value in the case of an unvalued policy, as the proportion of freight lost by the assured bears to the whole freight at the risk of the assured under the policy. R.S.O. 1960, c. 227, s. 71.

72. Where there is a partial loss of goods, merchandise, or other movables, the measure of indemnity, subject to any express provision in the policy, is as follows:

Partial loss
of goods,
merchandise,
etc.

1. Where part of the goods, merchandise, or other movables insured by a valued policy is totally lost, the measure of indemnity is such proportion of the sum fixed by the policy as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued policy.
2. Where part of the goods, merchandise, or other movables insured by an unvalued policy is totally lost, the measure of indemnity is the insurable value of the part lost, ascertained as in case of total loss.
3. Where the whole or any part of the goods or merchandise insured has been delivered damaged at its destination, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value.
4. "Gross value" means the wholesale price or, if there is no such price, the estimated value, with, in either case, freight, landing charges, and duty paid beforehand; provided that, in the case of goods or merchandise customarily sold in bond, the bonded price is deemed to be the gross value.
5. "Gross proceeds" means the actual price obtained at a sale where all charges on sale are paid by the sellers. R.S.O. 1960, c. 227, s. 72.

73.—(1) Where different species of property are insured under a single valuation, the valuation must be apportioned over the different species in proportion to their respective insurable values, as in the case of an unvalued policy. The insured value of any part of a species is such proportion of the total insured value of the same as the insurable value of the part bears to the insurable value of the whole, ascertained in both cases as provided by this Act.

Apportion-
ment of
valuation

(2) Where a valuation has to be apportioned and particulars of the prime cost of each separate species, quality, or description of goods cannot be ascertained, the division of the valuation may be

Idem

made over the net arrived sound values of the different species, qualities, or descriptions of goods. R.S.O. 1960, c. 227, s. 73.

General
average
contributions
and salvage
charges

74.—(1) Subject to any express provision in the policy, where the assured has paid, or is liable for, any general average contribution, the measure of indemnity is the full amount of such contribution, if the subject-matter liable to contribution is insured for its full contributory value; but, if such subject-matter is not insured for its full contributory value, or if only part of it is insured, the indemnity payable by the insurer must be reduced in proportion to the under-insurance, and where there has been a particular average loss that constitutes a deduction from the contributory value, and for which the insurer is liable, that amount must be deducted from the insured value in order to ascertain what the insurer is liable to contribute.

Extent of
liability

(2) Where the insurer is liable for salvage charges, the extent of his liability must be determined on the like principle. R.S.O. 1960, c. 227, s. 74.

Liabilities to
third parties

75. Where the assured has effected an insurance in express terms against any liability to a third party, the measure of indemnity, subject to any express provision in the policy, is the amount paid or payable by him to such third party in respect of such liability. R.S.O. 1960, c. 227, s. 75.

General
provisions
as to meas-
ure of
indemnity

76.—(1) Where there has been a loss in respect of any subject-matter not expressly provided for in the foregoing provisions of this Act, the measure of indemnity shall be ascertained, as nearly as may be, in accordance with those provisions, in so far as applicable to the particular case.

Idem

(2) Nothing in the provisions of this Act relating to the measure of indemnity affects the rules relating to double insurance, or prohibits the insurer from disproving interest wholly or in part, or from showing that at the time of the loss the whole or any part of the subject-matter insured was not at risk under the policy. R.S.O. 1960, c. 227, s. 76.

Particular
average
warranties

77.—(1) Where the subject-matter insured is warranted free from particular average, the assured cannot recover for a loss of part, other than a loss incurred by a general average sacrifice, unless the contract contained in the policy is apportionable, but, if the contract is apportionable, the assured may recover for a total loss of any apportionable part.

Idem

(2) Where the subject-matter insured is warranted free from particular average, either wholly or under a certain percentage, the insurer is nevertheless liable for salvage charges, and for particular charges and other expenses properly incurred pursuant to the provisions of the suing and labouring clause in order to avert a loss insured against.

(3) Unless the policy otherwise provides, where the subject-matter insured is warranted free from particular average under a specified percentage, a general average loss cannot be added to a particular average loss to make up the specified percentage. Idem

(4) For the purpose of ascertaining whether the specified percentage has been reached regard shall be had only to the actual loss suffered by the subject-matter insured, and particular charges and the expenses of and incidental to ascertaining and proving the loss must be excluded. R.S.O. 1960, c. 227, s. 77. Determination of specified percentage

78.—(1) Unless the policy otherwise provides and subject to the provisions of this Act, the insurer is liable for successive losses even though the total amount of such losses may exceed the sum insured. Successive losses

(2) Where, under the same policy, a partial loss that has not been repaired or otherwise made good is followed by a total loss, the assured can only recover in respect of the total loss. Idem

(3) Nothing in this section affects the liability of the insurer under the suing and labouring clause. R.S.O. 1960, c. 227, s. 78. Effect on liability under suing and labouring clause

79.—(1) Where the policy contains a suing and labouring clause, the engagement thereby entered into is deemed to be supplementary to the contract of insurance and the assured may recover from the insurer any expenses properly incurred pursuant to the clause, notwithstanding that the insurer may have paid for a total loss or that the subject-matter may have been warranted free from particular average, either wholly or under a certain percentage. Suing and labouring clause

(2) General average losses and contributions and salvage charges as defined by this Act are not recoverable under the suing and labouring clause. What not recoverable

(3) Expenses incurred for the purpose of averting or diminishing any loss not covered by the policy are not recoverable under the suing and labouring clause. Idem

(4) It is the duty of the assured and his agents in all cases to take such measures as may be reasonable for the purpose of averting or minimizing a loss. R.S.O. 1960, c. 227, s. 79. Duty to minimize loss

RIGHTS OF INSURER ON PAYMENT

80.—(1) Where the insurer pays for a total loss, either of the whole or, in the case of goods, of any apportionable part of the subject-matter insured, he thereupon becomes entitled to take over the interest of the assured in whatever may remain of the subject-matter so paid for, and he is thereby subrogated to all the Right of subrogation, total loss

rights and remedies of the assured in and in respect of that subject-matter as from the time of the casualty causing the loss.

Partial loss (2) Subject to the foregoing provisions, where the insurer pays for a partial loss, he acquires no title to the subject-matter insured or such part of it as may remain, but he is thereupon subrogated to all rights and remedies of the assured in and in respect of the subject-matter insured as from the time of the casualty causing the loss in so far as the assured has been indemnified according to this Act by such payment for the loss. R.S.O. 1960, c. 227, s. 80.

Right of contribution **81.**—(1) Where the assured is over-insured by double insurance, each insurer is bound, as between himself and the other insurers to contribute rateably to the loss in proportion to the amount for which he is liable under his contract.

Idem (2) If any insurer pays more than his proportion of the loss, he is entitled to maintain an action for contribution against the other insurers, and is entitled to the like remedies as a surety who has paid more than his proportion of the debt. R.S.O. 1960, c. 227, s. 81.

Effect of under-insurance **82.** Where the assured is insured for an amount less than the insurable value or, in the case of a valued policy, for an amount less than the policy valuation, he is deemed to be his own insurer in respect of the uninsured balance. R.S.O. 1960, c. 227, s. 82.

RETURN OF PREMIUM

Enforcement of return **83.** Where the premium, or a proportionate part thereof, is declared by this Act to be returnable,

(a) if already paid, it may be recovered by the assured from the insurer; and

(b) if unpaid, it may be retained by the assured or his agent. R.S.O. 1960, c. 227, s. 83.

Return by agreement **84.** Where the policy contains a stipulation for the return of the premium, or a proportionate part thereof, on the happening of a certain event and that event happens, the premium, or, as the case may be, the proportionate part thereof, is thereupon returnable to the assured. R.S.O. 1960, c. 227, s. 84.

Return for failure of consideration **85.**—(1) Where the consideration for the payment of the premium totally fails and there has been no fraud or illegality on the part of the assured or his agents, the premium is thereupon returnable to the assured.

(2) Where the consideration for the payment of the premium is apportionable and there is a total failure of any apportionable part of the consideration, a proportionate part of the premium is, under the like conditions, thereupon returnable to the assured. Idem

(3) In particular, Idem

- (a) where the policy is void, or is avoided by the insurer as from the commencement of the risk, the premium is returnable, provided that there has been no fraud or illegality on the part of the assured; but if the risk is not apportionable, and has once attached, the premium is not returnable;
- (b) where the subject-matter insured, or part thereof, has never been imperilled, the premium, or, as the case may be, a proportionate part thereof, is returnable; provided that where the subject-matter has been insured "lost or not lost" and has arrived in safety at the time when the contract is concluded, the premium is not returnable unless at such time the insurer knew of the safe arrival;
- (c) where the assured has no insurable interest throughout the currency of the risk, the premium is returnable, provided that this rule does not apply to a policy effected by way of gaming or wagering;
- (d) where the assured has a defeasible interest that is terminated during the currency of the risk, the premium is not returnable;
- (e) where the assured has over-insured under an unvalued policy, a proportionate part of the premium is returnable;
- (f) subject to the foregoing provisions, where the assured has over-insured by double insurance, a proportionate part of the several premiums is returnable; provided that, if the policies are effected at different times, and any earlier policy has at any time borne the entire risk, or if a claim has been paid on the policy in respect of the full sum insured thereby, no premium is returnable in respect of that policy, and when the double insurance is effected knowingly by the assured no premium is returnable. R.S.O. 1960, c. 227, s. 85.

MUTUAL INSURANCE

36.—(1) Where two or more persons mutually agree to insure each other against marine losses there is said to be a mutual insurance. Modification
of Act in
case of
mutual
insurance

Premium provisions not applicable

(2) The provisions of this Act relating to the premium do not apply to mutual insurance, but a guarantee, or such other arrangement as may be agreed upon, may be substituted for the premium.

Modification of provisions of Act

(3) The provisions of this Act, in so far as they may be modified by the agreement of the parties, may in the case of mutual insurance be modified by the terms of the policies issued by the association or by the rules and regulations of the association.

Application of Act

(4) Subject to the exceptions mentioned in this section, the provisions of this Act apply to a mutual insurance. R.S.O. 1960, c. 227, s. 86.

SUPPLEMENTAL

Ratification by assured

87. Where a contract of marine insurance is in good faith effected by one person on behalf of another, the person on whose behalf it is effected may ratify the contract even after he is aware of a loss. R.S.O. 1960, c. 227, s. 87.

Implied obligations varied by agreement or usage

88.—(1) Where any right, duty, or liability would arise under a contract of marine insurance by implication of law, it may be negatived or varied by express agreement, or by usage, if the usage is such as to bind both parties to the contract.

Idem

(2) The provisions of this section extend to any right, duty, or liability declared by this Act which may be lawfully modified by agreement. R.S.O. 1960, c. 227, s. 88.

Reasonable time, etc. a question of fact

89. Where by this Act any reference is made to reasonable time, reasonable premium, or reasonable diligence, the question what is reasonable is a question of fact. R.S.O. 1960, c. 227, s. 89.

Rules of common law saved

90. The rules of the common law, including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, continue to apply to contracts of marine insurance. R.S.O. 1960, c. 227, s. 90.

SCHEDULE

(Section 31)

FORM OF POLICY

Be it known that as well in own name as for and in the name and names of all and every other person or persons to whom the same doth, may, or shall appertain, in part or in all doth make assurance and cause. and them, and every of them, to be insured lost or not lost, at and from Upon any kind of goods and merchandises, and also upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of and in the good ship or vessel called the whereof is master under God, for this present voyage, or whosoever else shall go for master in the said ship, or by whatsoever other name or names the said ship, or the master thereof, is or shall be named or called; beginning the adventure upon the said goods and merchandises from the loading thereof aboard the said ship, upon the said ship, etc., and so shall continue and endure, during her abode there, upon the said ship, etc. And further, until the said ship, with all her ordnance, tackle, apparel, etc., and goods and merchandises whatsoever shall be arrived at upon the said ship, etc., until she hath moored at anchor twenty-four hours in good safety; and upon the goods and merchandises, until the same be there discharged and safely landed. And it shall be lawful for the said ship, etc., in this voyage, to proceed and sail to and touch and stay at any ports or places whatsoever without prejudice to this insurance. The said ship, etc., goods and merchandises, etc., for so much as concerns the assured by agreement between the assured and assurers in this policy, are and shall be valued at

Touching the adventures and perils which we, the assurers, are contented to bear and do take upon us in this voyage: they are of the seas, men-of-war, fire, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, surprisals, takings at sea, arrests, restraints, and detentions of all kings, princes, and people, of what nation, condition, or quality soever, barratry of the master and mariners, and of all other perils, losses, and misfortunes, that have or shall come to the hurt, detriment, or damage of the said goods and merchandises, and ship, etc., or any part thereof. And in case of any loss or misfortune it shall be lawful to the assured, their factors, servants, and assigns, to sue, labour, and travel for, in and about the defence, safeguards, and recovery of the said goods and merchandises, and ship, etc., or any part thereof, without prejudice to this insurance; to the charges whereof we, the assurers, will contribute each one according to the rate and quantity of his sum herein assured. And it is especially declared and agreed that no acts of the insurer or insured in recovering, saving, or preserving the property insured shall be considered as a waiver, or acceptance of abandonment. And it is agreed by us, the insurers, that this writing or policy of assurance shall be of as much force and effect as the surest writing or policy of assurance heretofore made in Lombard Street, or in the Royal Exchange, or elsewhere in London. And so we, the assurers, are contented, and do hereby promise and bind ourselves, each one for his own part, our heirs, executors, and goods to the assured, their executors, administrators, and assigns, for the true performance of the premises, confessing ourselves paid the consideration due unto us for this assurance by the assured, at and after the rate of

(Sue and labour clause)

(Waiver clause)

In witness whereof we, the assurers, have subscribed our names and sums assured in

N.B.—Corn, fish, salt, fruit, flour, and seed are warranted free from average, (Memorandum) unless general, or the ship be stranded; sugar, tobacco, hemp, flax, hides and skins are warranted free from average, under five pounds per cent; and all other goods, also the ship and freight, are warranted free from average, under three pounds per cent, unless general, or the ship be stranded.

RULES FOR CONSTRUCTION OF POLICY

The following are the rules referred to by this Act for the construction of a policy in the above or other like form, where the context does not otherwise require:

- | | |
|--------------------------|---|
| Lost or not lost | 1. Where the subject-matter is insured "lost or not lost" and the loss has occurred before the contract is concluded, the risk attaches, unless at such time the assured was aware of the loss, and the insurer was not. |
| From | 2. Where the subject-matter is insured "from" a particular place, the risk does not attach until the ship starts on the voyage insured. |
| At and from | 3. (a) Where a ship is insured "at and from" a particular place, and she is at that place in good safety when the contract is concluded, the risk attaches immediately. |
| (Ship) | (b) If she be not at that place when the contract is concluded, the risk attaches as soon as she arrives there in good safety, and, unless the policy otherwise provides, it is immaterial that she is covered by another policy for a specified time after arrival. |
| (Freight) | (c) Where chartered freight is insured "at and from" a particular place, and the ship is at that place in good safety when the contract is concluded, the risk attaches immediately. If she be not there when the contract is concluded, the risk attaches as soon as she arrives there in good safety. |
| Idem | (d) Where freight, other than chartered freight, is payable without special conditions and is insured "at and from" a particular place, the risk attaches pro rata as the goods or merchandise are shipped; provided that if there be cargo in readiness which belongs to the ship-owner, or which some other person has contracted with him to ship, the risk attaches as soon as the ship is ready to receive such cargo. |
| From the loading thereof | 4. Where goods or other movables are insured "from the loading thereof", the risk does not attach until such goods or movables are actually on board, and the insurer is not liable for them while in transit from the shore to the ship. |
| Safely landed | 5. Where the risk on goods or other movables continues until they are "safely landed", they must be landed in the customary manner and within a reasonable time after arrival at the port of discharge, and if they are not so landed the risk ceases. |
| Touch and stay | 6. In the absence of any further licence or usage, the liberty to touch and stay "at any port or place whatsoever" does not authorize the ship to depart from the course of her voyage from the port of departure to the port of destination. |
| Perils of the seas | 7. The term "perils of the sea" refers only to fortuitous accidents or casualties of the seas. It does not include the ordinary action of the winds and waves. |
| Pirates | 8. The term "pirates" includes passengers who mutiny and rioters who attack the ship from the shore. |
| Thieves | 9. The term "thieves" does not cover clandestine theft or a theft committed by any one of the ship's company, whether crew or passengers. |
| Restraint of princes | 10. The term "arrests, etc., of kings, princes, and people" refers to political or executive acts, and does not include a loss caused by riot or by ordinary judicial process. |
| Barratry | 11. The term "barratry" includes every wrongful act wilfully committed by the master or crew to the prejudice of the owner, or, as the case may be, the charterer. |
| All other perils | 12. The term "all other perils" includes only perils similar in kind to the perils specifically mentioned in the policy. |

13. The term "average unless general" means a partial loss of the subject-matter insured other than a general average loss, and does not include "particular charges." Average
unless
general

14. Where the ship has stranded, the insurer is liable for the excepted losses, although the loss is not attributable to the stranding, provided that when the stranding takes place the risk has attached and, if the policy be on goods, that the damaged goods are on board. Stranded

15. The term "ship" includes the hull, materials and outfit, stores and provisions for the officers and crew, and, in the case of vessels engaged in a special trade, the ordinary fittings requisite for the trade, and also, in the case of a steamship, the machinery, boilers, and coals, oils, and engine stores, if owned by the assured. Ship

16. The term "freight" includes the profit derivable by a ship-owner from the employment of his ship to carry his own goods or movables, as well as freight payable by a third party, but does not include passage-money. Freight

17. The term "goods" means goods in the nature of merchandise, and does not include personal effects or provisions and stores for use on board. Goods

In the absence of any usage to the contrary, deck cargo and living animals must be insured specifically, and not under the general denomination of goods.

R.S.O. 1960, c. 227, Sched.

CHAPTER 261

The Marriage Act

1. In this Act,

- (a) "band" means a band as defined in the *Indian Act* (Canada); Interpretation
R.S.C. 1952,
c. 149
- (b) "church" includes chapel, meeting-house or place set aside for religious worship;
- (c) "Deputy Provincial Secretary" means the Deputy Provincial Secretary and Deputy Minister of Citizenship;
- (d) "Indian" means a person who is registered as an Indian or entitled to be registered as an Indian under the *Indian Act* (Canada);
- (e) "issuer" means a person authorized under this Act to issue marriage licences;
- (f) "judge" means a judge or junior judge of a county or district court;
- (g) "licence" means a marriage licence issued under this Act;
- (h) "provincial judge" means a provincial judge appointed under *The Provincial Courts Act*; R.S.O. 1970,
c. 369
- (i) "Provincial Secretary" means the Provincial Secretary and Minister of Citizenship;
- (j) "reserve" means reserve as defined in the *Indian Act* (Canada). R.S.O. 1960, c. 228, s. 1; 1960-61, c. 52, s. 1; 1966, c. 83, s. 1.

2. The administration of this Act is under the direction of the Provincial Secretary. Administration
R.S.O. 1960, c. 228, s. 2.

3. With the consent of the Provincial Secretary, the Deputy Provincial Secretary may have, use and exercise any power, right or authority conferred by this Act on the Provincial Secretary. Delegation
of Minister's
powers
R.S.O. 1960, c. 228, s. 3.

4.—(1) No marriage may be solemnized except under the authority of a licence, special permit or publication of banns. Authority
to marry

(2) The Lieutenant Governor or his deputy may authorize by licence in Form 1 the solemnization of marriage. Licence

Special
permit

(3) The Provincial Secretary may authorize by special permit in Form 2 the solemnization of marriage. R.S.O. 1960, c. 228, s. 4.

Who may
marry,
residents

5.—(1) Any person who is eighteen years of age or more may obtain a licence or a special permit or be married under authority of publication of banns, provided no lawful cause exists to hinder the solemnization.

non-
residents

(2) No licence shall be issued where neither of the parties to the intended marriage has, for fifteen days immediately preceding the date of the application for a licence, had his usual place of abode within Ontario, unless the Provincial Secretary, in writing, authorizes the issue thereof. R.S.O. 1960, c. 228, s. 5.

Persons
mentally
ill, etc.

6. No person shall issue a licence or special permit to or solemnize the marriage of any person who is mentally ill or mentally defective, or who is under the influence of intoxicating liquor or narcotic drugs. R.S.O. 1960, c. 228, s. 6.

Consent to
marriage
under
eighteen,
father

7.—(1) No person shall,

(a) issue a licence or special permit to; or

(b) solemnize, under the authority of publication of banns, the marriage of,

any person under the age of eighteen years unless the consent in writing of the father is obtained.

mother

(2) Where the father is dead, or is living apart from the mother and such person and is not maintaining or contributing to the support of such person, the consent in writing of the mother shall be obtained.

guardian

(3) Where a guardian has been appointed, his consent in writing only shall be obtained.

Exemptions

(4) Notwithstanding subsections 1 to 3, a licence may be issued to a person under the age of eighteen years if the issuer is satisfied that both parents are dead and no guardian has been appointed or that the person whose consent is required is declared mentally ill or is confined in a hospital for mentally ill or mentally defective persons, or is not resident in Ontario or cannot be found. R.S.O. 1960, c. 228, s. 7 (1-4).

Form of
consent

(5) A consent required by this section shall be in Form 11 or in such other form as the Provincial Secretary considers sufficient, and the person giving the consent shall certify that the information and particulars contained therein are true and correct. 1965, c. 67, s. 1, *amended*.

Deposit of
consent

(6) Any consent required by this section shall be deposited with the person issuing the licence or special permit or solemnizing the marriage, as the case may be. R.S.O. 1960, c. 228, s. 7 (5).

8. No person shall,

- (a) issue a licence or special permit to; or
- (b) solemnize, under the authority of publication of banns, the marriage of,

Person under
fourteen
years

any person under the age of fourteen years unless section 7 is complied with and a certificate of a legally qualified medical practitioner, stating that the marriage is necessary to prevent illegitimacy of offspring, is deposited with the person issuing the licence or special permit or solemnizing the marriage. R.S.O. 1960, c. 228, s. 8.

9.—(1) Where the person whose consent is required under section 7 unreasonably or arbitrarily withholds his consent or is by his actions not interested in the maintenance or well-being of the person in respect of whose marriage the consent is required, or where it is uncertain whose consent is required, the person in respect of whose marriage consent is required may apply to a judge without the intervention of a next friend for an order under this section.

Application
to dispense
with consent

(2) The judge shall hear the application in a summary manner and may make an order dispensing with the consent. R.S.O. 1960, c. 228, s. 9.

Order

10. Notwithstanding anything in this Act, if the Provincial Secretary considers that circumstances justify the issue of a licence or a special permit in any particular case, he may, in his absolute discretion, authorize the issue of a licence or issue a special permit. R.S.O. 1960, c. 228, s. 10.

Discretion-
ary power
of Minister

11.—(1) A married person whose spouse is missing and who alleges,

Application
for presump-
tion of death

- (a) that his spouse has been continuously absent for at least seven years immediately preceding the application;
- (b) that his spouse has not been heard from or heard of during such period by the applicant or to the knowledge of the applicant by any other person; and
- (c) that the applicant has made reasonable inquiries and has no reason to believe that his spouse is living,

may apply to a judge for an order under this section.

(2) Upon being satisfied as to the truth of the matters alleged, the judge may, in his discretion, make an order declaring that the spouse shall be presumed dead.

Order

(3) Where an order has been obtained under this section, the person in whose favour the order was made may, subject to the provisions of this Act, obtain a licence or special permit or be

married under the authority of publication of banns upon depositing a copy of the order with the person issuing the licence or special permit or solemnizing the marriage together with an affidavit in Form 3.

Idem

(4) Except for the purposes of subsection 3, the order has no effect. R.S.O. 1960, c. 228, s. 11.

Divorced
persons,
in Canada

12.—(1) No issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled in Canada unless such person deposits with the issuer,

- (a) the final decree or judgment dissolving or annulling the marriage or a copy of the final decree, judgment or Act dissolving or annulling the marriage, certified by the proper officer; and
- (b) such other material as the issuer may require. R.S.O. 1960, c. 228, s. 12 (1); 1964, c. 58, s. 1.

elsewhere

(2) No issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled elsewhere than in Canada, unless the authorization in writing of the Provincial Secretary is obtained upon the deposit of such material as he may require. R.S.O. 1960, c. 228, s. 12 (2).

Prerequisite
to licence

13.—(1) Before a licence is issued,

- (a) both parties to the intended marriage shall make an affidavit in Form 4; or
- (b) one of the parties shall make an affidavit in Form 4 and,
 - (i) produce to the issuer a birth certificate of the other party, or
 - (ii) deposit with the issuer an affidavit by the other party or by some member of his family having personal knowledge of the facts, stating the age, date and place of birth of such other party; provided that, where the affidavit is made by the other party to the intended marriage, it is sufficient to state his age, date and place of birth, according to the best of his knowledge, information and belief. R.S.O. 1960, c. 228, s. 13 (1); 1965, c. 67, s. 2.

Affidavit
on licence

(2) The affidavit in Form 4 shall be endorsed on the licence. R.S.O. 1960, c. 228, s. 13 (2).

Marriage
not to be
performed
within three
days of
date of
licence

14. Where a marriage is to be solemnized under the authority of a licence it shall not take place earlier than the third day after the date of the issue of the licence, but the Provincial Secretary in his absolute discretion may authorize the solemnization of the marriage earlier than such third day. R.S.O. 1960, c. 228, s. 14.

15.—(1) Where a marriage is to be solemnized under the authority of publication of banns, the intention to marry shall be proclaimed openly in an audible voice during divine service,

- (a) where the parties are in the habit of attending worship at the same church, being within Canada, at that church; or
- (b) where the parties are in the habit of attending worship in different churches, being within Canada, in each such church.

(2) The banns shall be published according to the usage of the denomination, faith or creed of the church in which they are published and during divine Sunday service.

(3) Where the usage of any denomination, faith or creed substitutes any other day as the usual and principal day of the week for the celebration of divine service, the banns shall be published on such other day.

(4) The person or persons who publish banns shall complete proof on publication in Form 5. R.S.O. 1960, c. 228, s. 15.

16. Where a marriage is to be solemnized under the authority of publications of banns, it shall not take place earlier than the fifth day after the date of the publication of banns. R.S.O. 1960, c. 228, s. 16.

17. No marriage shall be solemnized under the authority of publication of banns unless proof of publication by the person or persons publishing the banns has been deposited with the person solemnizing the marriage. R.S.O. 1960, c. 228, s. 17.

18. Banns shall not be published,

- (a) where either of the parties to the intended marriage has been married and the marriage has been dissolved or annulled; or
- (b) where neither of the parties has had his usual place of abode within Ontario for fifteen days immediately preceding the request for publication. R.S.O. 1960, c. 228, s. 18.

19. A marriage shall be solemnized only within the three months immediately following the issue of the licence or special permit, or the publication of banns, as the case may be. R.S.O. 1960, c. 228, s. 19.

20. Every marriage shall be solemnized in the presence of the parties and at least two witnesses who shall affix their names as witnesses to the entry in the register made under section 27. R.S.O. 1960, c. 228, s. 20.

Marriage
certificate

21. Every person who solemnizes a marriage shall, at the time of the marriage, if required by either of the parties thereto, give a certificate of the marriage specifying the names of the parties, the date of the marriage, the names of the witnesses, and whether the marriage was solemnized under the authority of a licence, special permit or publication of banns. R.S.O. 1960, c. 228, s. 21.

Who may
solemnize
marriage

22.—(1) No person shall solemnize a marriage unless he is a judge or a provincial judge, or is registered under this section as a person authorized to solemnize marriage.

Application
for regis-
tration

(2) Upon application the Provincial Secretary may, subject to subsection 3, register any person as a person authorized to solemnize marriage.

Who may be
registered

(3) No person shall be registered unless it appears to the Provincial Secretary,

- (a) that the person has been ordained or appointed according to the rites and usages of the religious body to which he belongs, or is, by the rules of that religious body, deemed ordained or appointed;
- (b) that the person is duly recognized by the religious body to which he belongs as entitled to solemnize marriage according to its rites and usages;
- (c) that the religious body to which the person belongs is permanently established both as to the continuity of its existence and as to its rites and ceremonies; and
- (d) that the person is resident in Ontario or has his parish or pastoral charge in whole or in part in Ontario; provided that in the case of a person who is in Ontario temporarily and who, if resident in Ontario, might be registered under this section, the Provincial Secretary may register him as authorized to solemnize marriage during a period to be fixed by the Provincial Secretary.

Quakers

(4) Notwithstanding subsection 1, every marriage solemnized according to the rites, usages and customs of the religious Society of Friends, commonly called Quakers, shall be valid and all the duties imposed by this Act upon a person solemnizing a marriage shall, with respect to such marriage, be performed by the clerk or secretary of the society or of the meeting at which the marriage is solemnized; but nothing herein shall require the marriage to be celebrated or solemnized by such clerk or secretary. R.S.O. 1960, c. 228, s. 22, *amended*.

Register

23.—(1) The Provincial Secretary shall keep a register of the name of every person registered as a person authorized to solemnize marriage, the date of such registration, and such other particulars as he may consider advisable.

(2) The Provincial Secretary may issue a certificate in Form 6 of registration under this section. R.S.O. 1960, c. 228, s. 23. Certificate of registration

24.—(1) Where it appears to the Provincial Secretary that any person registered as authorized to solemnize marriage has ceased to possess the qualifications entitling him to be so registered, or for any other cause, the Provincial Secretary may cancel such registration. Cancellation of registration

(2) Every religious body, members of which are registered under this Act, shall notify the Provincial Secretary of the name of every such member so registered who has died or has ceased to reside in Ontario or has ceased to be associated with such religious body. R.S.O. 1960, c. 228, s. 24. Notice of change

25. When a person is registered under this Act as authorized to solemnize marriage, and when any such registration is cancelled, the Provincial Secretary shall publish notice thereof in *The Ontario Gazette*. R.S.O. 1960, c. 228, s. 25. Publication of registration and cancellation

26.—(1) A judge or provincial judge may solemnize marriage under the authority of a licence or a special permit. Civil marriage

(2) The marriage shall be solemnized in the judge's chambers or provincial judge's office between the hours of 9 o'clock in the morning and 5 o'clock in the afternoon. Place of solemnization

(3) No particular form of ceremony is required except that in some part of the ceremony, in the presence of the judge or provincial judge and witnesses, each of the parties shall declare: Form of ceremony

I do solemnly declare that I do not know of any lawful impediment why I, AB, may not be joined in matrimony to CD,

and each of the parties shall say to the other:

I call upon these persons here present to witness that I, AB, do take thee, CD, to be my lawful wedded wife (or husband),

after which the judge or provincial judge shall say:

I, EF, Judge (or Provincial Judge) of . . . , by virtue of the powers vested in me by *The Marriage Act*, do hereby pronounce you AB and CD to be husband and wife.

R.S.O. 1960, c. 228, s. 26, *amended*.

27. Every person shall immediately after he has solemnized a marriage, Entry in marriage register

(a) where the marriage was solemnized in a church, enter in the church register kept for the purpose; or

(b) where the marriage was solemnized elsewhere than in the church, enter in a register kept by him for the purpose,

the particulars set out in Form 7, and the entry shall be

authenticated by his signature and those of the parties and witnesses. R.S.O. 1960, c. 228, s. 27.

Church
marriage
registers

28.—(1) Every person registered as authorized to solemnize marriage who is in charge of a church that has not a marriage register shall apply to the clerk of the local municipality in which the church is situate for a marriage register for the church, and the clerk shall thereupon supply such register at the cost of the municipality.

Individual
registers

(2) Every person registered as authorized to solemnize marriage may apply to the clerk of the local municipality in which he resides for a marriage register for his own use, and the clerk shall thereupon supply such register at the cost of the municipality.

Unorganized
territory

(3) Where the church is situate or the person is resident in territory without municipal organization, the application referred to in subsection 1 or 2 shall be made to the Provincial Secretary who shall supply such register.

Supply of
registers

(4) The Provincial Secretary shall supply a marriage register to every judge and provincial judge.

Property in
registers

(5) Every marriage register supplied under subsection 1, 2 or 3 is the property of the religious body to which the person who applied for the register belongs, and every marriage register supplied under subsection 4 is the property of the Crown. R.S.O. 1960, c. 228, s. 28, *amended*.

Statement of
marriage

29.—(1) Before the solemnization of a marriage, the parties to the marriage shall complete the particulars in the statement of marriage in Form 8 endorsed on the licence, special permit or certificate of publication of banns, and leave it with the person who will solemnize the marriage, and forthwith after the solemnization of the marriage,

- (a) the parties to the marriage shall sign the statement;
- (b) at least two witnesses to the marriage shall sign the statement; and
- (c) the person who solemnized the marriage shall complete and sign the certificate on the statement.

To be for-
warded to
Registrar
General

(2) Within two days after the day of the marriage, the person who solemnized the marriage shall forward the statement, duly completed in accordance with subsection 1, to the Registrar General. R.S.O. 1960, c. 228, s. 29.

Ex officio
issuers

30.—(1) Marriage licences may be issued by the clerk of every city, town and village and by every provincial judge in territory without municipal organization and every such clerk and provincial judge is *ex officio* an issuer of marriage licences. R.S.O. 1960, c. 228, s. 30 (1), *amended*.

(2) Where it is considered expedient for the public convenience, the Lieutenant Governor in Council may appoint as an issuer the clerk of any township, or any person resident in the Provisional County of Haliburton, or in a township adjacent thereto, or in a provisional judicial district, or a member of a band upon the recommendation of the council of the band. R.S.O. 1960, c. 228, s. 30 (2); 1966, c. 83, s. 2.

In townships
and unorga-
nized
territory

31.—(1) An issuer may, with the approval in writing of the Provincial Secretary or of the head of the council of the municipality of which he is clerk, appoint in writing one or more deputies to act for him, and any such deputy while so acting has the power of the issuer appointing him.

Deputy
issuers

(2) The issuer shall, upon appointing a deputy, forthwith transmit to the Provincial Secretary a notice of the appointment, and of the reason therefor, and of the name and official position of the person by whom the appointment has been approved, and the Provincial Secretary may at any time cancel the appointment.

Notice of
appoint-
ment of
deputy

(3) The deputy shall sign each licence issued by him with the name of the issuer as well as his own name in the following manner:

Signature of
licences by
deputy

AB, Issuer of Marriage Licences, per CD, Deputy Issuer.

R.S.O. 1960, c. 228, s. 31.

32. Every licence under the hand and seal of the Lieutenant Governor or his deputy and every special permit issued under the hand and seal of the Provincial Secretary or Deputy Provincial Secretary for the purpose of the solemnization of a marriage, is valid notwithstanding that the Lieutenant Governor or his deputy, or the Provincial Secretary or the Deputy Provincial Secretary, as the case may be, has ceased to hold office before the time of the issue of the licence or special permit. R.S.O. 1960, c. 228, s. 32.

Validity of
licences and
special
permits

33. An issuer or the Provincial Secretary may require evidence to identify any applicant or to establish his status and may examine, under oath if required, any applicant or other person as to any matter pertaining to the issue of a licence or special permit. R.S.O. 1960, c. 228, s. 33.

Evidence on
applications

34.—(1) Every issuer shall keep in his office a record of the serial number and the date of issue of every licence issued by him, and the names and addresses of the parties to the intended marriage.

Record of
licences

(2) Any person is entitled, upon application, to have a search made respecting any licence issued within three months immediately preceding the date of application. R.S.O. 1960, c. 228, s. 34.

Searches

Untrue
information

35. Where an issuer has reason to believe that any information set out in the affidavit in Form 4 is untrue, he shall not issue the licence unless, on the production of such further evidence as he may require, he is satisfied as to the truth of the information. R.S.O. 1960, c. 228, s. 35.

Material to
be for-
warded, to
Provincial
Secretary

36.—(1) Every issuer shall, immediately upon issuing a licence, forward to the Provincial Secretary such of the particulars contained in Form 4 as the Provincial Secretary may require and any affidavit under section 39. R.S.O. 1960, c. 228, s. 36 (1).

to Registrar
General

(2) Every issuer immediately upon issuing a licence and every person registered as authorized to solemnize marriage upon publishing banns shall forward to the Registrar General the following:

1. Any consent under section 7 or 8.
2. Any certificate of a medical practitioner under section 8.
3. Any judge's order under section 9.
4. Any judge's order under section 11.
5. Any affidavit in Form 3 under section 11.
6. The decree or judgment dissolving or annulling a marriage or a copy of the decree, judgment or Act dissolving or annulling a marriage, and any other material under section 12.
7. Any affidavit as to age under section 13.
8. Any documentary material obtained under section 33 or 35. R.S.O. 1960, c. 228, s. 36 (2); 1964, c. 58, s. 2; 1965, c. 67, s. 3.

Oaths

37. Issuers may administer oaths for the purposes of this Act. R.S.O. 1960, c. 228, s. 37.

Licence
fee

38.—(1) The fee for a licence is \$10, of which sum \$7 shall be remitted by the issuer to the Treasurer of Ontario.

Idem

(2) The issuer shall retain \$3 from the licence fee for his own use. 1965, c. 67, s. 4.

Commuta-
tion of
clerk's fees

(3) Where the issuer is the clerk of a municipality, the council of the municipality may commute the issuer's fees provided for in subsection 2 for a fixed sum, not exceeding \$2,000, payable annually by the municipality to the issuer, in which case the fees that would otherwise be retained by the issuer shall belong to the municipality.

(4) When the council and the issuer do not agree upon the amount of the commutation, the amount may be fixed by a judge. R.S.O. 1960, c. 228, s. 38 (3, 4). Idem

39. Where both parties to an intended marriage are Indians ordinarily resident on a reserve in Ontario or on Crown lands in Ontario and desire to avail themselves of the provisions of this Act, Indians

(a) before a licence is issued, one of the parties to the intended marriage shall make an affidavit in Form 9 which shall be deposited with the issuer; and

(b) notwithstanding section 38, no fee shall be paid for such licence. R.S.O. 1960, c. 228, s. 39.

40. The fee for an authorization under subsection 2 of section 5 is \$5. R.S.O. 1960, c. 228, s. 40. Non-resident fee

41. The costs of an application under section 11 shall be fixed by the judge and paid by the applicant. R.S.O. 1960, c. 228, s. 41. Costs on order of presumption of death

42. The fee for the solemnization of a marriage by a judge or provincial judge is \$10 which shall be remitted by the judge or provincial judge, as the case may be, to the Treasurer of Ontario. R.S.O. 1960, c. 228, s. 42, *amended*. Fee on marriage by judge

43. Every issuer and every other person having unissued licences in his possession, custody or control, shall, whenever required so to do, transmit them to the Provincial Secretary, and the property in all unissued licences is in the Crown. R.S.O. 1960, c. 228, s. 43. Property in unissued licences

44. No person who solemnizes or purports to solemnize a marriage is subject to any action or liability by reason of there having been any legal impediment to the marriage unless, at the time he performed the ceremony, he was aware of the impediment. R.S.O. 1960, c. 228, s. 44. Protection of persons solemnizing marriage in good faith

45.—(1) Form 10 respecting the prohibited degrees of affinity and consanguinity shall be endorsed on the licence and on the proof of publication of banns. Prohibited degrees to be endorsed

(2) If at any time changes are made in the law affecting the prohibited degrees of affinity and consanguinity, the Lieutenant Governor in Council may direct changes to be made in Form 10 so as to make it conformable to the law for the time being. R.S.O. 1960, c. 228, s. 45. Changes in prohibited degrees

Marriages solemnized in good faith

46. If the parties to a marriage solemnized in good faith and intended to be in compliance with this Act are not under a legal disqualification to contract such marriage and after such solemnization have lived together and cohabited as man and wife, such marriage shall be deemed a valid marriage, notwithstanding that the person who solemnized the marriage was not authorized to solemnize marriage, and notwithstanding the absence of or any irregularity or insufficiency in the publication of banns or the issue of the licence or special permit. R.S.O. 1960, c. 228, s. 46.

Issue of licence by unauthorized persons

47. Every person who issues a licence, unless authorized so to do, is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$300 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 228, s. 47.

Marriage of mental defectives, etc.

48. Every issuer who issues a licence and every person who solemnizes a marriage, knowing or having reason to believe that either of the parties to the intended marriage or to the marriage is mentally defective or mentally ill or is under the influence of intoxicating liquor or narcotic drugs, is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1960, c. 228, s. 48.

Marriage by unauthorized person

49. Every person not registered as a person authorized to solemnize marriage who solemnizes or undertakes to solemnize any marriage, is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$500 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1960, c. 228, s. 49.

False statements

50. Subject to section 51, every person who knowingly makes any false statement in any document required under this Act, in addition to any other penalty or punishment to which he may be liable, is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$500 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1960, c. 228, s. 50; 1965, c. 67, s. 5.

Idem

51. Every person who knowingly makes a false statement in a certificate required by subsection 5 of section 7 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. 1965, c. 67, s. 6.

Where no other penalty provided

52. Every person who contravenes any provision of this Act for which no other penalty is provided is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1960, c. 228, s. 51.

FORM 1

(Section 4 (2))

Serial No.

PROVINCE OF ONTARIO

By

Lieutenant Governor of the Province of Ontario

I do hereby authorize by this licence the solemnization of marriage between

..... of and
(name in full) (address)..... of
(name in full) (address)

Provided always that, by reason of any Affinity, Consanguinity, Prior Marriage, or other Lawful Cause there is no Legal impediment in this behalf; but if otherwise, this licence is null and void to all intents and purposes whatsoever.

GIVEN under my Hand and Seal at the City of Toronto in the Province of Ontario this day of
in the year of Our Lord and in the Year of Her Majesty's Reign.

Issued this day of 19....

.....
Issuer of Marriage Licences at
.....

R.S.O. 1960, c. 228, Form 1.

FORM 2

(Section 4 (3))

SPECIAL PERMIT

I,
Provincial Secretary, hereby authorize the marriage of

..... of the of

and

of the of

GIVEN under my hand and seal at
this day of 19....

.....
(Provincial Secretary)

R.S.O. 1960, c. 228, Form 2.

FORM 3

(Section 11 (3))

AFFIDAVIT REGARDING PRESUMPTION OF DEATH

Canada:
 Province of Ontario, }
 To Wit: }

I,, do solemnly swear that:

1. A marriage is intended to be solemnized in the Province of Ontario, between the following parties, of whom I am one, namely:

Intended Bridegroom (*name in full*)

Residence (*address in full*)

and

Intended Bride (*name in full*)

Residence (*address in full*)

2. I was married to (*name in full*)
 on (*date*) at (*place*)

3. I have obtained from a judge of the County (*or* District) Court of the County (*or* District) of an order declaring that (*name in full*) shall be presumed dead.

4. I still have no reason to believe that
 is living.

5. I have given careful consideration to the question of the validity of the intended marriage between (the other party to the intended marriage) and myself and understand that and have advised (the other party to the intended marriage) that if (the person presumed dead) is not in fact dead at the time of the solemnization of the intended marriage, such marriage is void.

6. I have shown (the other party to the intended marriage) a copy of the order of presumption of death.

SWORN before me at the
 of
 in the of
, this
 day of
 A.D. }

FORM 4
(Section 13)
AFFIDAVIT

I, and
I, of the in the
of make oath and say as follows:
That, for the space of fifteen days immediately preceding the date of this affidavit
has had (name in full of deponent or of the other contracting party or as the case may be)
USUAL place of ABODE within the PROVINCE OF ONTARIO,
That I believe there is no affinity, consanguinity, prior marriage or other lawful cause or legal impediment to bar or hinder the solemnization of the marriage, and
That the contents set forth herein are to the best of knowledge, information and belief, true in every particular:
(my or our)

Names in full			
Occupation Condition in Life		Age	Age
Religious Denomination	Bachelor, Widower or Divorcee		Spinster, Widow or Divorcee
Residence Place of Birth			
Intended Place of Marriage			

SWORN before me at the of in the County or District of
of this (signature of deponent or deponents, as case may be)
day of 19.....
..... (signature of Issuer or Deputy Issuer, as case may be) Issuer of Marriage Licences at
R.S.O. 1960, c. 228, Form 4

FORM 5

(Section 15 (4))

No.

PROOF OF PUBLICATION

On the day of, 19.....,
 I duly published the banns of marriage between.....

 of the..... of.....
 and.....
 of the..... of.....
 in..... Church in
 the..... of.....

I further certify that I verily believe.....

 (and).....
 (is or are) in the habit of attending worship at such Church.

Dated this..... day of..... 19.....

.....
 (Signature)

.....
 (Address)

R.S.O. 1960, c. 228, Form 5.

FORM 6

(Section 23 (2))

No.

CERTIFICATE OF REGISTRATION

as a person authorized to solemnize marriage

Pursuant to THE MARRIAGE ACT, I certify that.....

 of the..... of.....
 in the..... of.....
 is registered as a person authorized to solemnize marriage in the PROVINCE OF
 ONTARIO.

GIVEN under my hand at the Parliament Buildings at the City of Toronto in
 the Province of Ontario this.....
 day of..... 19.....

(Deputy) Provincial Secretary.

R.S.O. 1960, c. 228, Form 6.

FORM 7

(Section 27)

REGISTER OF MARRIAGES

	BRIDEGROOM
Name in full	
Age	
Residence when married	
Place of birth	
Bachelor, Widower or Divorcee (B., W. <i>or</i> D.)	
Occupation	
Religious Denomination of Bridegroom	
Names of Parents	
	BRIDE
Name in full	
Age	
Residence when married	
Place of birth	
Spinster, Widow or Divorcee (S., W. <i>or</i> D.)	
Religious Denomination of Bride	
Names of Parents	
Whether Married by Li- cence or Banns (L. <i>or</i> B.)	
SIGNATURES of Bridegroom	
of Bride	
of Witnesses	
	Residence
	Residence

I certify the above-named parties were married by me at
, in the County of, this day of
 19.....

(Signature)

(Address)

FORM 8
(Section 29 (1))
STATEMENT OF MARRIAGE

(For use of Registrar General only)

1. Place of Marriage: The of
(city, town, village or township) (county or territorial district)

2. Date of Marriage: (month by name) (day) (year) 3. Licence ☐ Banns ☐
(Place X in proper square)

Bridegroom		Bride	
4. Surname Given Names	16. Surname Given Names	17. The of (city, town, village or township) (county or territorial district)	18. (Spinster, Widow, Divorcee)
5. The of (city, town, village or township) (county or territorial district)	19. Religious Denomination	20. Age (in years)	21. Citizenship
6. (Bachelor, Widower, Divorcee)	22. Place of Birth	23. Occupation	24. (If in Canada, state Province; if foreign born state country)
7. Age (in years)	25. Name of Father	26. Maiden Name of Mother	27. (Province or Country)
8. Age (in years)	28. Surname Given Names	29. Maiden Surname	30. (Province or Country)
9. Citizenship	31. Birthplace of Father	32. Birthplace of Mother	33. (Province or Country)
10. (If in Canada, state Province; if foreign born state country)	34. (Province or Country)	35. (Province or Country)	36. (Province or Country)
11. Surname Given Names	37. (Province or Country)	38. (Province or Country)	39. (Province or Country)
12. Maiden Surname	40. (Province or Country)	41. (Province or Country)	42. (Province or Country)
13. Birthplace of Father	43. (Province or Country)	44. (Province or Country)	45. (Province or Country)
14. Birthplace of Mother	46. (Province or Country)	47. (Province or Country)	48. (Province or Country)
15. (Province or Country)	49. (Province or Country)	50. (Province or Country)	51. (Province or Country)

I CERTIFY that I solemnized the marriage of the parties named in Items 4 and 16 on the date and at the place set out above.

*Registration No.

*Religious Denomination.

(Signature of Bridegroom) (Signature of Bride)

(Signature of Witness) (Signature of Witness)

(Address of Witness) (Address of Witness)

(Signature of person solemnizing the marriage)

(Post Office Address)

Date

R.S.O. 1960, c. 228, Form 8, amended.

FORM 9

(Section 39)

AFFIDAVIT BY INDIAN

Canada:
Province of Ontario,
To Wit:

IN THE MATTER OF an application for a
licence under *The Marriage Act*, for the
marriage of

..... of
(name in full) (address—giving street
and number)

and

..... of
(name in full) (address—giving street
and number)

I,
(name in full)

of the of
(city, town, village or township)

in the of
(county or district)

in the of
(province)

.....
(occupation)

MAKE OATH AND SAY THAT:

- 1. I am one of the parties aforesaid.
- 2. According to the best of my knowledge, information and belief, both the parties aforesaid are Indians ordinarily resident on a reserve in Ontario (or on Crown lands in Ontario, as the case may be).

SWORN before me at the

..... of

in the

of in the

Province of Ontario,

this day of,

19....

.....
(Signature of Deponent)

This affidavit may be taken in Ontario by the Marriage Licence Issuer or a Commissioner for taking Affidavits or a Notary Public.

ISSUER PLEASE NOTE—Forthwith after issuance of Marriage Licence forward this affidavit to the Deputy Provincial Secretary, Parliament Buildings, Toronto, with the following information:
(See Section 36 of *The Marriage Act*.)

..... 19... ..
(No. of marriage licence) (date of issue) (place of issue) (signature)

FORM 10

(Section 45)

Degrees of affinity and consanguinity which, under the statutes in that behalf, bar the lawful solemnization of marriage.

A man may not marry his

1. Grandmother
2. Grandfather's wife
3. Wife's grandmother
4. Aunt
- †5. Uncle's wife
6. Wife's aunt
7. Mother
8. Step mother
9. Wife's mother
10. Daughter
11. Wife's daughter
12. Son's wife
13. Sister
14. Granddaughter
15. Grandson's wife
16. Wife's granddaughter
17. Niece
18. Nephew's wife
19. Wife's niece*
- †20. Brother's wife

A woman may not marry her

1. Grandfather
2. Grandmother's husband
3. Husband's grandfather
4. Uncle
5. Aunt's husband*
6. Husband's uncle
7. Father
8. Step father
9. Husband's father
10. Son
11. Husband's son
12. Daughter's husband
13. Brother
14. Grandson
15. Granddaughter's husband
16. Husband's grandson
17. Nephew
18. Niece's husband
- †19. Husband's nephew
- †20. Husband's brother

The relationships set forth in this table include all such relationships, whether by the whole or half blood, and whether legitimate or illegitimate.

*By the Revised Statutes of Canada, 1952, c. 176, s. 2, it is enacted that "A marriage is not invalid merely because the woman is a sister of a deceased wife of the man, or a daughter of a sister or brother of a deceased wife of the man."

†By the Revised Statutes of Canada 1952, c. 176, s. 3, it is enacted that "A marriage is not invalid merely because the man is a brother of a deceased husband of the woman or a son of a brother or sister of a deceased husband of the woman."

R.S.O. 1960, c. 228, Form 10.

FORM 11

(Section 7)

CONSENT OF PARENT OR GUARDIAN TO MARRIAGE

Province of Ontario

IN THE MATTER OF the proposed marriage

of of
(name in full) (address—giving street
and number)

To Wit:

and of
(name in full) (address—giving street
and number)

I,
(name in full)

of the of
(city, town, village or township)

in the of
(county or district)

in the of
(province)

....., **HEREBY DECLARE:**
(*occupation*)

That I am the.....
 ("father", "mother" or "guardian duly appointed")

of the said.....:

That..... is under the age of eighteen years and was born
(he or she)

on the day of, 19....;

That I hereby give my consent to the said marriage.

I hereby certify that the information and particulars herein contained are true and correct.

(signature of parent or guardian)

1965, c. 67, s. 7.

CHAPTER 262

The Married Women's Property Act

1. In this Act,

Interpretation

- (a) "contract" includes the acceptance of any trust or the office of executrix or administratrix;
- (b) "property" includes a thing in action. R.S.O. 1960, c. 229, s. 1.

2.—(1) Every married woman is capable of acquiring, holding and disposing by will or otherwise of any real or personal property as her separate property in the same manner as if she were a *feme sole* without the intervention of a trustee.

Capacity for holding, etc., property

(2) Every woman married on or after the 1st day of July, 1884, is also entitled to have and hold and to dispose of as her separate property all real and personal property belonging to her at the time of marriage.

Right to hold real and personal property

(3) Every married woman shall have and hold as her separate property, and may dispose of as such, the wages, earnings, money and property gained or acquired by her in any employment, trade or occupation in which she is engaged or which she carries on and in which her husband has no proprietary interest, or gained or acquired by her by the exercise of any literary, artistic or scientific skill. R.S.O. 1960, c. 229, s. 2.

Right to wages, etc.

3.—(1) Every married woman is capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued, either in contract or in tort or otherwise, in all respects as if she were a *feme sole*, and her husband need not be joined with her as plaintiff or defendant or be made a party to any action or other legal proceeding brought by or taken against her, and any damages or costs recovered by her in any such action or proceeding are her separate property and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property and not otherwise.

Power to contract and to sue and be sued

(2) An action does not lie against a husband for a tort committed by his wife before or after marriage, nor shall he be joined in any action against his wife to recover damages for a tort committed by her.

Husband not responsible for wife's torts

Husband not
liable for
debts con-
tracted by
wife before
marriage

(3) A husband is not liable for the debts of his wife incurred by her before marriage and is not liable on any contracts entered into by his wife before marriage. R.S.O. 1960, c. 229, s. 3.

Married
woman's
contracts
after 13th
April, 1897

4.—(1) Every contract entered into by a married woman on or after the 13th day of April, 1897, otherwise than as an agent,

- (a) shall be deemed to be a contract entered into by her with respect to and bind her separate property whether she was or was not in fact possessed of or entitled to any separate property at the time when she entered into the contract;
- (b) binds all separate property that she may at the time or thereafter possess or be entitled to; and
- (c) is also enforceable by process of law against all property that she may thereafter while discoverd possess or be entitled to.

Restraint on
anticipation

(2) Nothing in this section renders available to satisfy any liability or obligation arising out of such contract any separate property that such married woman is restrained from anticipating. R.S.O. 1960, c. 229, s. 4.

Execution
of general
power

5. The execution of a general power by will by a married woman has the effect of making the property appointed liable for her debts and other liabilities, and such property may be seized and sold under an execution against her personal representative after her separate property has been exhausted. R.S.O. 1960, c. 229, s. 5.

Power of
court to bind
interest

6. Notwithstanding that a married woman is restrained from anticipation the court may, if it thinks fit, where it appears to the court to be for her benefit, by judgment or order, with her consent, bind her interest in any property. R.S.O. 1960, c. 229, s. 6.

Remedies for
protection
of separate
property

7. Every married woman has in her own name against all persons, including her husband, the same remedies for the protection and security of her own separate property as if such property belonged to her as a *feme sole*, but, except as aforesaid no husband or wife is entitled to sue the other for a tort. R.S.O. 1960, c. 229, s. 7.

Wife's
ante-nuptial
debts, con-
tracts and
torts

8. A woman after her marriage continues to be liable in respect and to the extent of her separate property for all debts contracted and all contracts entered into or wrongs committed by her before her marriage, and she may be sued for any such debt and for any liability in damages or otherwise under any such contract or in respect of any such wrong, and all sums recovered against her in

respect thereof or for any costs relating thereto, shall be payable out of her separate property. R.S.O. 1960, c. 229, s. 8.

9. For the purposes of this Act, the legal personal representative of any married woman has, in respect of her separate estate, the same rights and liabilities and is subject to the same jurisdiction as she would have had or been subject to if she were living. R.S.O. 1960, c. 229, s. 9.

Legal representative of married woman

10. Nothing in this Act interferes with or affects any settlement or agreement for a settlement made or to be made, whether before or after marriage, respecting the property of any married woman, or interferes with or renders inoperative any restriction against anticipation at present attached or to be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement of a woman's own property to be made or entered into by herself has any validity against debts contracted by her before marriage, and no settlement or agreement for a settlement has any greater force or validity against her creditors than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors. R.S.O. 1960, c. 229, s. 10.

Saving of settlements, and restraints against anticipation

11. The provisions of this Act as to the liabilities of married women extend to all liabilities by reason of any breach of trust or devastavit committed by a married woman who is a trustee or executrix or administratrix, either before or after her marriage, and her husband is not subject to such liabilities unless he has acted or intermeddled in the trust or administration. R.S.O. 1960, c. 229, s. 11.

Liabilities

12.—(1) In any question between husband and wife as to the title to or possession of property, either party, or any corporation, company, public body or society in whose books any stocks, fund or shares of either party are standing may apply in a summary way to a judge of the Supreme Court or at the option of the applicant irrespectively of the value of the property in dispute, to the judge of the county or district court of the county or district in which either party resides, and the judge may make such order with respect to the property in dispute and as to the costs of and consequent on the application as he thinks fit or may direct the application to stand over from time to time, and any inquiry or issue touching the matters in question to be made or tried in such manner as he thinks fit.

Summary disposal of questions between husband and wife as to property

(2) All proceedings in a county or district court under this section, in which by reason of the character or value of the property in dispute, such court would not have had jurisdiction if

Removal of proceedings from county court into Supreme Court

this Act had not been passed, may at the option of the defendant or respondent be removed as of right into the Supreme Court, but any order made or act done in the course of the proceedings prior to the removal is valid unless an order is made to the contrary by the Supreme Court.

Hearing (3) The judge, if either party so requests, may hear any such application in private.

Corporation's costs (4) Any such corporation, company, public body or society shall, in the matter of any such application, for the purposes of costs or otherwise be treated as a stakeholder only.

Appeal (5) An appeal lies to the Court of Appeal from any order made under this section where the value of the property in dispute exceeds \$200. R.S.O. 1960, c. 229, s. 12.

Order of protection for the earnings of minor children

13.—(1) Any married woman,

- (a) having a judgment for alimony; or
- (b) who lives apart from her husband, having been obliged to leave him from cruelty or other cause which by law justifies her leaving him and renders him liable for her support; or
- (c) whose husband is a mentally incompetent person either with or without lucid intervals; or
- (d) whose husband is undergoing sentence of imprisonment for a criminal offence; or
- (e) whose husband from habitual drunkenness, profligacy or other cause neglects or refuses to provide for her support and that of his family; or
- (f) whose husband has never been in Ontario; or
- (g) who is deserted or abandoned by her husband,

may obtain an order of protection entitling her, notwithstanding her coverture, to have and to enjoy all the earnings of her minor children, and any acquisitions therefrom, free from the debts and obligations of her husband and from his control or disposition, and without his consent, in as full and ample a manner as if she continued sole and unmarried.

Discharge of order

(2) The married woman may at any time apply, or the husband or any of the husband's creditors may at any time, on notice to the married woman, apply for the discharge of the order of protection, and if an order for discharge is made it may be registered or filed in the same manner as the original order. R.S.O. 1960, c. 229, s. 13 (1, 2).

By whom made in cities and towns

(3) Either order may issue in duplicate and, where the married woman resides in a city or town in which there is a provincial judge, the order of protection or any order discharging it shall be

made by the provincial judge and shall be registered in the registry office of the registry division in which the city or town is situate.

(4) Where the married woman does not reside in a city or town in which there is a provincial judge, the order shall be made by the judge or one of the judges or the acting or deputy judge of the small claims courts or a small claims court of the county or district in which the married woman resides, and instead of being registered shall be filed for public inspection with the clerk of the small claims court of the division within which the married woman resides.

By whom
order made
elsewhere

(5) The hearing of an application for an order of protection or for an order discharging the same may be public or private at the discretion of the judge or provincial judge. R.S.O. 1960, c. 229, s. 13 (3-5), *amended*.

Hearing

(6) The order for protection has no effect until it is registered or filed, and the registrar or clerk shall immediately on receiving the order endorse thereon the day of registering or filing the same.

Order not to
have effect
until regis-
tered or filed

(7) The order discharging an order of protection shall not be retroactive.

Operation of
order dis-
charging

(8) The order of protection shall protect the earnings of the minor children of the married woman until an order is made discharging the order of protection, and she shall continue to hold and enjoy to her separate use whatever she may have acquired by the earnings of her minor children during the interval between the registering or filing of the order of protection and the making of the order discharging it. R.S.O. 1960, c. 229, s. 13. (6-8).

From what
time order
of protection
to take effect

CHAPTER 263

The Master and Servant Act

1. In this Act, “wages” means wages or salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise. R.S.O. 1960, c. 230, s. 1. Interpretation

2. No voluntary contract of service or indenture is binding for longer than a term of nine years from the date thereof. R.S.O. 1960, c. 230, s. 2. Limitation of voluntary contract of service

3.—(1) An agreement entered into by a workman, servant or employee and his master or employer under which a share of the profits of any trade, calling, business or employment is to be paid to the workman, servant or employee in lieu of or in addition to salary, wages or other remuneration, unless the agreement otherwise provides or a contrary intention may be reasonably inferred therefrom, does not, Agreement for share in profits of business

- (a) create any relation in the nature of a partnership or the rights or liabilities of partners; or
- (b) give to the workman, servant or employee the right to examine into the accounts or interfere in the management or affairs of the trade, calling or business.

(2) Any statement or return by the master or employer of the net profits of the trade, calling, business or employment on which he declares and appropriates the share of profits payable under such agreement is final and conclusive between the parties and all persons claiming under them, and is not impeachable upon any ground, except fraud. R.S.O. 1960, c. 230, s. 3. Employer's statement of profits to be final

4.—(1) Upon the complaint on oath of a servant or labourer against his master or employer concerning any non-payment of wages a justice of the peace may summon the master or employer to appear before him at a reasonable time to be stated in the summons, and he or some other justice upon proof on oath of the personal service of the summons, or of its service as hereinafter authorized, shall examine into the matter of the complaint, whether or not the master or employer appears, and upon due proof of the cause of complaint the justice may discharge the servant or labourer from the service or employment of the master or employer, and may direct the payment to him of any wages found to be due, not exceeding the sum of \$500 and the justice shall make such order as to him seems just and reasonable for the Complaints by servants for non-payment of wages

payment of such wages, with costs, and in case of the non-payment of the same, together with the costs, for the space of eight days after the order has been made the justice shall issue his warrant of distress for the levying of the wages, together with the costs of the order and of the distress. R.S.O. 1960, c. 230, s. 4 (1); 1961-62, c. 77, s. 1 (1).

Warrant
for arrest

(2) Where the justice of the peace before whom a complaint is laid under this section is satisfied that the master or employer is about to quit the territorial jurisdiction of the justice of the peace, the justice of the peace may issue a warrant in Form 1 for the arrest of the master or employer. 1961-62, c. 77, s. 1 (2).

Where
complaints
may be
prosecuted

(3) A complaint may be prosecuted and determined in any county or district in which the person complained against is found, or in any county or district in which the person complained against carries on business. R.S.O. 1960, c. 230, s. 4 (2).

Time within
which pro-
ceedings may
be taken

(4) Proceedings may be taken under this Act within six months after the engagement or employment has ceased, or within six months after the last instalment of wages under the agreement of hiring has become due, whichever last happens. R.S.O. 1960, c. 230, s. 4 (3); 1961-62, c. 77, s. 1 (3).

Work done
in Ontario
under
agreement
made out of
Ontario

(5) Proceedings may be had for non-payment of wages in respect of service or labour performed in Ontario upon a verbal or written agreement or bargain made out of Ontario.

When master
claims
set-off

(6) Where the master or employer claims a set-off or makes a claim for unliquidated damages, the justice of the peace shall investigate the same and give judgment for the balance of wages, if any, due to the claimant after deducting the set-off or claim.

Limit of
jurisdiction
as to set-off

(7) The justice of the peace does not have jurisdiction to adjudicate upon a set-off or claim exceeding the claim for wages except to the extent of the wages. R.S.O. 1960, c. 230, s. 4 (4-6).

Additional
remedy in
cases before
provincial
judge

5. Where the proceedings are taken before a provincial judge, and payment of wages is ordered by him to be made by the master or employer to the servant or labourer, and the same are not paid within the time limited by the order, the same proceedings may be taken by the person claiming the benefit of the order as may be taken by a party having an unsatisfied judgment or order in a small claims court for the payment of any debt, damages or costs, as respects the examination of the judgment debtor touching his estate and effects, the means he has of discharging his liability, and the disposal he has made of any property, and the provincial judge has the like power and authority to enforce payment of the debt as are possessed by a judge of a small claims court in like cases, and the practice and proceedings thereon shall be the same as nearly as may be and have the same effect as provided in *The*

Small Claims Courts Act, with respect to judgment debtors. R.S.O. 1970, c. 230, s. 5, *amended*. R.S.O. 1970, c. 439

6. Subject to section 8, the provincial judge may name in the order for payment of wages such time, not exceeding twenty-one days, as to him may seem just and reasonable for the payment of the same and costs, and in case of non-payment within such time the complainant is entitled to take forthwith the proceedings for enforcing payment herein provided. R.S.O. 1960, c. 230, s. 6, *amended*. Limit of time for payment

7. Where an order is made under this Act by a provincial judge for the payment of money, such order may be proceeded upon and enforced in the manner provided by section 694 of the *Criminal Code* (Canada) and it applies as if it were set out and enacted herein. R.S.O. 1960, c. 230, s. 7, *amended*. Procedure upon order of provincial judge 1953-54, c. 51 (Can.)

8.—(1) In the case of wages due to any mechanic, labourer or other person in respect of work of the character mentioned in section 5 of *The Mechanics' Lien Act* the jurisdiction of a provincial judge in a city under this Act extends to wages for thirty days, or for a balance equal to the wages for thirty days, though the same or the balance thereof exceed the sum of \$400. Jurisdiction of provincial judges in cities R.S.O. 1970, c. 267

(2) Where no specific rate of wages has been expressly agreed to between the parties, the provincial judge in a city may order payment of the wages, reckoning the amount thereof according to the current rate of wages in the city in like cases, or according to what may appear to be a just and reasonable allowance. Where no specific rate of wages agreed on

(3) The order shall direct payment of the wages to be made forthwith, and a warrant of distress shall be issued accordingly, unless the master or employer makes oath, and the provincial judge believes, that the master or employer is unable to make the payment forthwith, and expects to be able to pay and intends to pay the same within the time given, and unless also the provincial judge considers the proposed delay to be under the circumstances reasonable, and the provincial judge, if he sees fit, may order security to be given as a condition of delay. Order for payment of wages, enforcing

(4) In case of an adjournment at the instance of the master or employer the same shall be on payment for the claimant's time in attending the court, the amount to be fixed by the provincial judge, and such payment shall be made forthwith unless the provincial judge sees reason for dispensing with immediate payment. Adjournment at instance of master

(5) The order for payment may be filed in the small claims court that would be the proper court for bringing an action for the wages, and on such filing the order becomes a judgment of such small claims court and may be enforced as a judgment of that court. R.S.O. 1960, c. 230, s. 8, *amended*. Enforcement in small claims court

Service of
summons,
etc.

9.—(1) Every summons issued under this Act against an individual, firm or corporation, and every subsequent paper or proceeding in the action or proceeding in which the summons has been issued may be served, except in the cases provided for by subsection 2, upon the person to whom it is directed either by delivering it to him personally or, if he cannot be found conveniently, by leaving the same for him at any place where such individual, firm or corporation carries on business within the county or district in which the justice of the peace issuing the summons has jurisdiction, with some adult person employed in the office or place of business of such person.

Service on
certain
public
companies

(2) In cases against railway, telegraph, telephone or express companies every such summons and other papers may be served on any agent of the company whose office or place of business as such agent is within such county or district, and for the purposes of this section the word "agent" includes,

- (a) in the case of a railway company, a station master having charge of a station belonging to the company;
- (b) in the case of a telegraph company, a person having charge of a telegraph office belonging to the company;
- (c) in the case of a telephone company, a person having charge of a telephone office belonging to the company; and
- (d) in the case of an express company, a person having charge of an express office belonging to the company.

Effect of
service under
this section

(3) Service as authorized by this section has the same effect as personal service. R.S.O. 1960, c. 230, s. 9.

Appeal

10.—(1) An appeal from an order for the payment of wages, or order of dismissal from service or employment, or against any decision of any justice of the peace or provincial judge under this Act shall be made to the small claims court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the small claims court held in the division in which the party or parties complained against or one of them carried on business, and in case of dismissal of the appeal, or affirmance of the order or decision, the court appealed to shall enforce the order for payment of wages or of dismissal, and for the payment of the costs awarded, and shall, if necessary, issue process for carrying such judgment into effect.

Idem
R.S.O. 1970,
c. 450

(2) The appeal shall be taken within the time and as nearly as may be, in the manner provided by *The Summary Convictions Act* as to appeals to a county or district court, and the proceedings upon and incidental to the appeal and subsequent thereto shall, except as provided by subsection 1 and by section 11, be the same

as nearly as may be, as in the case of an appeal under *The Summary Convictions Act*. R.S.O. 1960, c. 230, s. 10.

11.—(1) The appeal may be tried with a jury if the appellant files with the clerk of the court within ten days after the order or decision a notice requiring a jury, or if the respondent within four days after the service of the notice of appeal upon him files a notice with the clerk requiring a jury, and if the proper fees are in either case deposited with the clerk; otherwise the judge may try the appeal without a jury or may summon a jury from the body of the court as he considers proper. Trial with or without jury

(2) Upon the application of either party when a jury is not required the judge may try the appeal at such time and place as he may appoint, and upon such notice as he considers reasonable. Time and place for hearing appeals
R.S.O. 1960, c. 230, s. 11.

12.—(1) Every agreement or bargain, verbal or written, expressed or implied, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act whereby it is agreed that this Act shall not apply, or that the remedies hereby provided shall not be available for the benefit of any person entering into such agreement, is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic, or other person. R.S.O. 1960, c. 230, s. 12 (1). Contracts waiving application of Act to be void

(2) This section does not apply to any manager, officer or superintendent. R.S.O. 1960, c. 230, s. 12 (2); 1961-62, c. 77, s. 2. Section not to apply to certain persons

FORM 1

The Master and Servant Act
(Section 4 (2))

WARRANT TO ARREST

Province of Ontario }
 of }

To the Peace Officers in the said

Whereas a complaint has been made against
of under *The Master and Servant Act*; and
whereas I am satisfied that the said is about to
quit my territorial jurisdiction;

This is therefore to command you, in Her Majesty's name, forthwith to arrest
the said and bring him before
..... to be dealt with according to law.

DATED at, this day of, 19....

.....
Justice of the Peace

1961-62, c. 77, s. 3.

CHAPTER 264

The Maternity Boarding Houses Act

1. In this Act, “medical officer of health” means the medical officer of health of the municipality in which any house required by this Act to be registered is situate, and where the house is situate in territory without municipal organization, means the medical officer of health appointed for the locality under *The Public Health Act*. R.S.O. 1960, c. 231, s. 1.

Interpretation

R.S.O. 1970, c. 377

2.—(1) No person shall receive or retain for hire or reward any woman or girl for accouchement, or keep unmarried women or girls, being mothers of infants with infants for board or lodging, or keep a maternity boarding house, unless registered under this Act.

Maternity boarding houses to be registered

(2) No person whose house is registered under this section shall receive or retain therein for hire or reward any person except women or girls for accouchement, or mothers with infants. R.S.O. 1960, c. 231, s. 2.

Persons who may be received in maternity boarding houses

3.—(1) No person shall receive or retain for hire or reward one or more infants under three years of age for the purpose of nursing or maintaining such infant or infants for a longer period than twenty-four hours, except in a house that is registered under this Act, but any person may be exempted from this section by the medical officer of health of a city or by the Director of Child Welfare on proof that one child only is thus cared for.

Homes for infant children to be registered

(2) No person whose house is registered under this section shall receive or retain therein for hire or reward any person except infants under three years of age. R.S.O. 1960, c. 231, s. 3.

Only children under 3 to be received

(3) Subsection 2 does not apply to children who are wards of a children's aid society. 1964, c. 59, s. 1.

Exception

4.—(1) The medical officer of health or any officer specially appointed by him for that purpose shall keep a register of the names of persons applying to register under this Act, and therein shall cause to be registered the name and house of every person so applying and the situation of the house, and the medical officer of health shall fix the number of women or girls or infants who may be received into a house so registered.

Register

(2) The registration shall remain in force for one year, and a fee, not exceeding \$10, shall be charged for registration. R.S.O. 1960, c. 231, s. 4.

Registration, duration and fee

Discretion
as to
registration

5. The medical officer of health may refuse to register any house unless satisfied that it is suitable for the purposes for which it is to be registered, and unless satisfied by the production of certificates that the person applying to be registered is of good character and able to maintain, keep and properly lodge such women or girls or infants. R.S.O. 1960, c. 231, s. 5.

Cancelling
registration

6. If it is shown to the satisfaction of the medical officer of health that a person whose house is registered under this Act has been guilty of serious neglect or is incapable of providing the women or girls or infants entrusted to his care with proper food and attention, or that the house specified in the register has become unfit for the reception of women or girls or infants, the medical officer of health may remove the name and house from the register. R.S.O. 1960, c. 231, s. 6.

Register to
be kept by
keeper of
boarding
house or
home

7. Every person registered under this Act shall immediately enter in a register to be kept by him the name and age of every woman or girl or infant and also the place from which the woman or girl or infant came before entering the house, and shall also enter in the register the name of the medical practitioner who attended at any birth taking place in the house or who attended any infant in the house, and when any such woman or girl or infant leaves the house, the place to which they are removed, and the date of the removal, and also whether the infant was taken away with the mother or how otherwise disposed of, or how children boarded without their mothers are disposed of, and shall forthwith transmit to the medical officer of health a copy of every entry made in the register, and shall produce the register when required by the medical officer of health or by any person appointed by him, and in the event of his refusing so to produce the register or neglecting to enter in a register the required particulars, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1960, c. 231, s. 7.

Forms for
registration
to be fur-
nished to
keepers

8. The person registered is entitled to receive gratuitously from the medical officer of health a book of forms for the registration of persons received into the house, which book shall also contain a printed copy of this Act. R.S.O. 1960, c. 231, s. 8.

Births in
houses to
be attended
by physician

9. The person registered shall ensure that every birth that takes place in the house is attended by a legally qualified medical practitioner, who shall report forthwith to the medical officer of health the fact of the birth having taken place and shall also give notice of the same in the manner provided by *The Vital Statistics Act*. R.S.O. 1960, c. 231, s. 9.

R.S.O. 1970,
c. 483

Notice of
death

10. The person registered shall immediately after the death of any inmate of the house, whether a woman or a girl or an infant

born therein or brought thereto as a boarder, cause notice of the death to be given to the coroner and the medical officer of health. 1964, c. 59, s. 2.

11. The medical officer of health shall provide for the visiting and inspecting, from time to time, of every house registered under this Act, and the person appointed to inspect is entitled to enter the house at any time and examine every part thereof and call for and examine the register kept by the person registering the house and to inquire into all matters concerning the house and the inmates thereof, and the person registered shall give all reasonable information to the person making the inspection, and afford him every reasonable facility for viewing and inspecting the premises, and seeing the inmates thereof. R.S.O. 1960, c. 231, s. 11.

Visitation
and inspection

12. No child under three years of age, whether an inmate of any house registered under this Act or born therein or brought thereto shall be given out for adoption except by and with the consent of a children's aid society or other duly incorporated benevolent or charitable institution or society, or of the Director of Child Welfare, under such rules and regulations in that behalf as may be approved of by the Lieutenant Governor in Council. R.S.O. 1960, c. 231, s. 12.

Adoption
of children
from homes

13. No person registered under this Act shall advertise that he will adopt a child or children or hold out inducements to parents to part with their offspring, and when any such child is transferred by his parents or is given out for adoption to other persons, such transfer shall be made with the knowledge and consent of the agent or secretaty of a children's aid society, or of the Director of Child Welfare. R.S.O. 1960, c. 231, s. 13.

Advertising
for children
for adoption
prohibited

14. No person shall make any false representation for the purpose of obtaining registration under this Act, or make use of any false certificate knowing it to be false, or falsify any register kept in pursuance of this Act. R.S.O. 1960, c. 231, s. 14.

Securing
registration
by false
representation,
etc.

15. The medical officer of health shall not, nor shall any officer employed by him, nor shall the person registered as keeper of any house, divulge or disclose the contents of the register or any of the particulars entered therein, except upon inquiry before a court of law, or at a coroner's inquest, or before some other competent tribunal, or, in the case of such officer or registered person, for the information of the medical officer of health. R.S.O. 1960, c. 231, s. 15.

Registers,
contents of,
not to be
disclosed

16. The managers of every maternity hospital, infants' home or other refuge for women, shall ascertain and record the antece-

Record of
antecedents
of inmates

dents of women and girls coming under their care, and shall furnish to the medical officer of health such information in their possession as may be called for from time to time. R.S.O. 1960, c. 231, s. 16.

Penalties

17. Every person who contravenes any of the provisions of this Act is guilty of an offence and on summary conviction where no other penalty is provided is liable to a fine of not more than \$100, and when registered under this Act is also liable to have his name and house removed from the register. R.S.O. 1960, c. 231, s. 17.

Expenses of
execution
of Act

18. All expenses incurred in and about the execution of this Act and the trial of offenders thereunder shall be borne by the municipality in which the registered house is situated, or in case it is situated in territory without municipal organization, by the Province of Ontario. R.S.O. 1960, c. 231, s. 18.

Application
of Act
R.S.O. 1970,
c. 361

19. This Act does not apply to any premises licensed under *The Private Hospitals Act*. R.S.O. 1960, c. 231, s. 19.

CHAPTER 265

The Matrimonial Causes Act

1. In any action for divorce or to declare the nullity of any marriage, the court may order that the husband shall secure to the wife, unless she has been guilty of adultery, such gross sum of money or annual sum of money for any term, not exceeding her life, as, having regard to her fortune, if any, and to the ability of the husband and to the conduct of the parties, may be considered reasonable and may suspend the pronouncement of the judgment absolute until all necessary deeds and instruments have been executed. R.S.O. 1960, c. 232, s. 1.

Gross or
annual sums
to wives

2.—(1) In addition to or in substitution for an order under section 1 the court may direct the husband to pay to the wife, unless she has been guilty of adultery, during the joint lives of the husband and wife and so long as she remains chaste such monthly or weekly sum for her support and maintenance as the court may think reasonable, provided that,

Monthly or
weekly sums
to wives

- (a) if the husband after any such order becomes, from any cause, unable to make the payments, the court may discharge or modify the order or temporarily suspend the order in whole or in part and may subsequently revive it in whole or in part as may be considered proper;
- (b) if the means of the husband shall at any time after the making of any such order be increased, the court may, if it is considered proper, increase the amount payable thereunder;
- (c) such payments shall cease on the wife marrying again.

(2) The court has the same power to make an order for the payment of interim alimony as in the case of an action for alimony. R.S.O. 1960, c. 232, s. 2.

Interim
alimony

3. If a judgment for divorce is pronounced by reason of the adultery of the wife and it appears that the wife is entitled to property either in possession or reversion, the court may order such settlement as it considers reasonable of her property or any part thereof for the benefit of the children of the marriage or their issue or any or either of them. R.S.O. 1960, c. 232, s. 3.

Court may
order settle-
ment of
wife's
property

4. If a judgment for divorce is pronounced and it appears that a marriage settlement has been made, the court may make such order with reference to the application of the whole or any part of

Power of
court where
marriage
settlement

the property settled for the benefit of the children of the marriage as the court may under all the circumstances of the case consider proper. R.S.O. 1960, c. 232, s. 4.

Power as to
custody of
children

5.—(1) In any action for divorce the court may from time to time and either before or after the judgment absolute, make such provision as appears to be just with regard to the custody, maintenance and education of the children of the marriage and may direct payment by either the father or the mother of such sum as may be necessary for the due care, maintenance and education of the children of the marriage.

Who may
make ap-
plication

(2) An application under this section may be made by either husband or wife or by the children by their next friend either at the hearing of the case or upon summary application therein. R.S.O. 1960, c. 232, s. 5.

Interpre-
tation
R.S.O. 1970,
c. 64.

6.—(1) In this section, “child of the marriage” and “child” include a child adopted under Part IV of *The Child Welfare Act*, or a predecessor thereof, by the parties to the action but do not include a child of the marriage of the parties who has been adopted by another person under Part IV of *The Child Welfare Act* or a predecessor thereof.

Divorce
actions,
children
under 16

(2) Where the statement of claim in any action for the dissolution of marriage contains particulars as to any child of the marriage who is under sixteen years of age at the time of the commencement of the action, the Official Guardian shall cause an investigation to be made and shall report to the court upon all matters relating to the custody, maintenance and education of the child.

Agents

(3) The Official Guardian may engage any person to make such investigation on his behalf.

Report to be
received in
evidence

(4) An affidavit of any person making the investigation, verifying the report as to such facts as are within his knowledge and setting out the source of his information and his belief as to any other facts, with the report marked as an exhibit thereto, shall be received in evidence upon the trial of the action.

Attendance
at trial

(5) Where the facts contained in the report are disputed, the Official Guardian or his agent shall attend the trial on behalf of the child and shall cause the person making the investigation to attend as a witness.

Powers of
Judge

(6) Notwithstanding that no claim for custody or maintenance of the child is made in the action, the judge presiding at the trial may make such order as to the custody or maintenance, or both, of the child as may seem proper. R.S.O. 1960, c. 232, s. 6 (1-6).

(7) The petitioner in an action for divorce shall pay the disbursements incurred by the Official Guardian in an investigation in respect of the action and the Official Guardian shall not file his report of the investigation with the court until such disbursements have been paid.

Disbursements of Official Guardian

(8) The disbursements of the Official Guardian payable under subsection 7 shall be deemed to be costs incurred in the action for the purposes of any award as to costs by the judge. 1968-69, c. 64, s. 1.

Disbursements as costs in action

(9) Any person affected by an order made under this section, including the Official Guardian on behalf of the child, may appeal therefrom to the Court of Appeal.

Appeal

(10) The Rules Committee may make rules for carrying this section into effect and except where inconsistent with this section or such rules, *The Judicature Act* and the rules made thereunder apply to proceedings under this section.

Rules

R.S.O. 1970, c. 228

(11) This section applies to actions for divorce that are commenced on or after the 1st day of April, 1950. R.S.O. 1960, c. 232, s. 6 (8-10).

Application of section

7.—(1) Any party to an action for divorce or for the annulment of a marriage in which a judgment nisi is granted may appeal to the Court of Appeal from the judgment nisi, but no appeal lies from the judgment absolute in any such action by any party who having had time and opportunity to appeal from the judgment nisi has not done so.

Rights of appeal

(2) Any party to an action for divorce or for the annulment of a marriage in which a judgment nisi is granted or any person who intervened or who applied to show cause why the judgment should not be made absolute may appeal to the Court of Appeal from the judgment or order disposing of the matter raised by the intervention or by the application.

Idem

(3) This section applies to actions for divorce or for the annulment of a marriage in which judgment nisi is granted on or after the 1st day of April, 1950. R.S.O. 1960, c. 232, s. 7.

Application of section

8. After the granting of a judgment absolute of divorce the wife shall be regarded as a *feme sole* so far as her property and her right to contract are concerned. R.S.O. 1960, c. 232, s. 8.

After divorce wife a *feme sole*

9. The rules of court relating to the conduct of matrimonial causes may be repealed, amended or varied by the Rules Committee, subject to the approval of the Lieutenant Governor in Council. R.S.O. 1960, c. 232, s. 9.

Rules confirmed with right to repeal, amend, etc.

Her
Majesty's
Proctor,
appoint-
ment

10. There shall be an officer known as Her Majesty's Proctor who shall be appointed by the Lieutenant Governor in Council. 1960-61, c. 54, s. 1.

1967-68,
c. 24
enacted
in part

11. So many of the provisions of the *Divorce Act (Ontario)* (Canada) as are or may be within the legislative competence of the Legislature are hereby enacted as if fully set out in this Act. R.S.O. 1960, c. 232, s. 10.

CHAPTER 266

The Meat Inspection Act (Ontario)

1. In this Act,Interpre-
tation

- (a) "animal" means a domestic animal the meat of which is intended to be used for human consumption, and includes poultry;
- (b) "Director" means the Director of the Veterinary Services Branch of the Department of Agriculture and Food;
- (c) "establishment" means an establishment operating under the *Meat Inspection Act* (Canada);
- (d) "inspector" means an inspector appointed under this Act;
- (e) "Minister" means the Minister of Agriculture and Food;
- (f) "plant" means a premises where animals are slaughtered;
- (g) "poultry" means chickens, ducks, geese, turkeys and other birds;
- (h) "regulations" means the regulations made under this Act;
- (i) "slaughter" means slaughter for the purpose of processing meat into food for human consumption. 1962-63, c. 78, s. 1; 1965, c. 68, s. 1, *amended*.

1955, c. 36
(Can.)

2.—(1) Except as provided in the regulations, no person shall slaughter an animal unless the animal has been inspected by an inspector immediately before the time of slaughter. 1962-63, c. 78, s. 2 (1).

Slaughtering
of animals

(2) No person shall slaughter an animal, except in the manner and by the devices prescribed in the regulations. 1965, c. 68, s. 2.

Idem

(3) Except as provided in the regulations, no person shall sell, offer for sale, transport or deliver to any person meat unless,

Sale, etc.,
of meat

- (a) the animal from which the meat was obtained was inspected by an inspector as provided in subsection 1;
- (b) the slaughter of the animal took place at a plant that complies with this Act and the regulations, or at an establishment; and

- (c) the meat is stamped with an inspection legend or is labelled, as provided in the regulations. 1962-63, c. 78, s. 2 (2).

Licensing

3.—(1) No person shall engage in the business of operating a plant other than an establishment without a licence therefor from the Director. 1962-63, c. 78, s. 3 (1); 1965, c. 68, s. 3 (1).

Refusal to
issue licence

(2) The Director may, after a hearing, refuse to issue a licence under subsection 1 for any reason that he considers proper. 1962-63, c. 78, s. 3 (2); 1965, c. 68, s. 3 (2).

Appeal

(3) Any person to whom the Director has refused to issue a licence under subsection 2 may appeal the decision of the Director to the Minister, and the Minister may confirm the decision or order the licence to be issued. 1962-63, c. 78, s. 3 (3); 1965, c. 68, s. 3 (3).

Inspectors

4.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary to carry out and enforce this Act and the regulations.

Certificate
of appoint-
ment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister. 1962-63, c. 78, s. 4 (1, 2).

Powers

(3) For the purpose of carrying out his duties under this Act, the Director or an inspector may enter any premises or building and may inspect the premises or building and any animal or meat therein. 1962-63, c. 78, s. 4 (3); 1965, c. 68, s. 4.

Obstruction
of Director
or
inspector

5. No person shall hinder or obstruct the Director or an inspector in the course of his duties or furnish him with false information, or refuse to furnish him with information. 1962-63, c. 78, s. 5; 1965, c. 68, s. 5.

Agreements
with Canada

6. Subject to the approval of the Lieutenant Governor in Council, the Minister may enter into agreements with the Government of Canada, or any agency thereof, providing for,

- (a) the more efficient carrying out within Ontario of the purpose and intent of this Act;
- (b) the performance by the Government of Canada, on behalf of the Government of Ontario, of functions and services under this Act that are the responsibility of the Government of Ontario; and
- (c) the payment of money required for functions and services performed by the Government of Canada under clause b. 1962-63, c. 78, s. 6.

7. Where the provisions of any by-law of a local municipality are in conflict with this Act or the regulations, the provisions of this Act and the regulations prevail. 1962-63, c. 78, s. 7.

Conflict
with by-law
of local
municipality

8.—(1) Every medical officer of health is *ex officio* an inspector under this Act within the area under his jurisdiction.

Medical
officer of
health,
ex officio
inspector
Municipal
inspectors

(2) A person appointed by the council of a local municipality or by a health unit as an inspector under the direction of the medical officer of health of the local municipality or health unit, as the case may be, is *ex officio* an inspector under this Act within the area under the jurisdiction of the medical officer of health. 1962-63, c. 78, s. 8.

9. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$500 or to imprisonment for a term of not more than six months, or to both fine and imprisonment, and for a subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 1962-63, c. 78, s. 9.

Offences

10. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences and prescribing the fees payable for licences or the renewal thereof;
- (b) prescribing conditions for licensing;
- (c) prescribing the powers and duties of the Director and of inspectors or any class thereof;
- (d) respecting the facilities and equipment to be provided and maintained at plants and the operation of plants;
- (e) respecting cleanliness and sanitation at plants;
- (f) requiring and governing the detention and disposal of any animal or meat thereof and prescribing the procedures therefor;
- (g) prescribing the manner of, and the devices to be used in, the slaughter of animals;
- (h) respecting the transportation and delivery of meat from a plant;
- (i) prescribing the records to be made and kept by operators of plants;
- (j) providing for the exemption from the Act or the regulations, or any provision thereof, of any person or class or

persons, or of any animal or class of animals and the meat thereof, and prescribing the terms and conditions therefor;

- (k) prescribing the terms and conditions under which animals and meat may be inspected at any plant and the fees payable for inspections;
 - (l) providing for the stamping with an inspection legend at a plant of meat that is fit for human consumption;
 - (m) providing for the labelling at a plant of meat that is fit for human consumption;
 - (n) prescribing forms and providing for their use;
 - (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- 1962-63, c. 78, s. 10; 1965, c. 68, s. 6.
-

CHAPTER 267

The Mechanics' Lien Act

1.—(1) In this Act,

Interpre-
tation

- (a) “completion of the contract” means substantial performance, not necessarily total performance, of the contract;
- (b) “contractor” means a person contracting with or employed directly by the owner or his agent for the doing of work or the placing or furnishing of materials for any of the purposes mentioned in this Act;
- (c) “materials” includes every kind of movable property;
- (d) “owner” includes any person and corporation, including a municipal corporation and a railway company, having any estate or interest in the land upon which or in respect of which work is done or materials are placed or furnished, at whose request, and
 - (i) upon whose credit, or
 - (ii) on whose behalf, or
 - (iii) with whose privity or consent, or
 - (iv) for whose direct benefit,

work is done or materials are placed or furnished and all persons claiming under him or it whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials placed or furnished have been commenced to be placed or furnished;

- (e) “registrar” includes a master of titles;
- (f) “registry office” includes a land titles office;
- (g) “subcontractor” means a person not contracting with or employed directly by the owner or his agent for any of the purposes mentioned in this Act, but contracting with or employed by a contractor or, under him, by another subcontractor;
- (h) “wages” means the money earned by a workman for work done by time or as piece work, and includes all monetary supplementary benefits, whether by statute, contract or collective bargaining agreement;
- (i) “workman” means a person employed for wages in any kind of labour, whether employed under a contract of service or not.

Work
includes
service

(2) In this Act, the expression "the doing of work" includes the performance of a service, and corresponding expressions have corresponding meanings.

Substantial
performance

(3) For the purposes of this Act, a contract shall be deemed to be substantially performed,

- (a) when the work or a substantial part thereof is ready for use or is being used for the purpose intended; and
- (b) when the work to be done under the contract is capable of completion or correction at a cost of not more than,
 - (i) 3 per cent of the first \$250,000 of the contract price,
 - (ii) 2 per cent of the next \$250,000 of the contract price, and
 - (iii) 1 per cent of the balance of the contract price.

Idem

(4) For the purpose of this Act, where the work or a substantial part thereof is ready for use or is being used for the purpose intended and where the work cannot be completed expeditiously for reasons beyond the control of the contractor, the value of the work to be completed shall be deducted from the contract price in determining substantial performance. 1968-69, c. 65, s. 1.

GENERAL

Trust funds
in hands of
contractors

2.—(1) All sums received by a builder, contractor or subcontractor on account of the contract price constitute a trust fund in his hands for the benefit of the owner, builder, contractor, subcontractor, Workmen's Compensation Board, workmen, and persons who have supplied materials on account of the contract or who have rented equipment to be used on the contract site, and the builder, contractor or subcontractor, as the case may be, is the trustee of all such sums so received by him and he shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust until all workmen and all persons who have supplied materials on the contract or who have rented equipment to be used on the contract site and all subcontractors are paid for work done or materials supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto.

Exception

(2) Notwithstanding subsection 1, where a builder, contractor or subcontractor has paid in whole or in part for any materials supplied on account of the contract or for any rented equipment or has paid any workman who has performed any work or any subcontractor who has placed or furnished any materials in respect of the contract, the retention by such builder, contractor or subcontractor of a sum equal to the sum so paid by him shall be deemed not to be an appropriation or conversion thereof to his own use or to any use not authorized by the trust.

(3) Where a sum becomes payable under a contract to a contractor by an owner on the certificate of a person authorized under the contract to make such a certificate, an amount equal to the sum so certified that is in the owner's hands or received by him at any time thereafter shall, until paid to the contractor, constitute a trust fund in the owner's hands for the benefit of the contractor, subcontractor, Workmen's Compensation Board, workmen, and persons who have supplied materials on account of the contract or who have rented equipment to be used on the contract site, and the owner shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust until all workmen and all persons who have supplied materials on the contract or who have rented equipment to be used on the contract site and all contractors and subcontractors are paid for work done or materials supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto

Trust funds
in hands of
owners

(4) All sums received by an owner, other than a municipality as defined in *The Department of Municipal Affairs Act* or a metropolitan or regional municipality or a local board thereof, which are to be used in the financing, including the purchase price of the land and the payment of prior encumbrances, of a building, structure or work, constitute, subject to the payment of the purchase price of the land and prior encumbrances, a trust fund in the hands of the owner for the benefit of the persons mentioned in subsection 1, and, until the claims of all such persons have been paid, the owner shall not appropriate or convert any part thereof to his own use or to any use not authorized by the trust.

Advances on
mortgage,
etc., a trust
fund.
R.S.O. 1970,
c. 118

(5) Notwithstanding subsection 4, where an owner has himself paid in whole or in part for any work done, for any materials placed or furnished or for any rented equipment, the retention by him from any moneys received from the lender under subsection 4 of a sum equal to the sum so paid by him shall be deemed not to be an appropriation or conversion thereof to his own use or to any use not authorized by the trust.

Exception

(6) Notwithstanding anything in this section, where money is lent to a person upon whom a trust is imposed by this section and is used by him to pay in whole or in part for any work done, for any materials placed or furnished or for any rented equipment, trust moneys may be applied to discharge the loan to the extent that the lender's money was so used by the trustee, and any sum so applied shall be deemed not to be an appropriation or conversion to the trustee's own use or to any use not authorized by the trust.

Protection
for money
lenders

(7) Every person upon whom a trust is imposed by this section who knowingly appropriates or converts any part of any trust moneys referred to in subsection 1, 3 or 4 to his own use or to any use not authorized by the trust is guilty of an offence and on

Offence and
penalty

summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both, and every director or officer of a corporation who knowingly assents to or acquiesces in any such offence by the corporation is guilty of such offence, in addition to the corporation, and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both. 1968-69, c. 65, s. 2.

Limit of
time for
asserting
claims to
trust
moneys

3. No action to assert any claim to trust moneys referred to in section 2 shall be commenced against a lender of money to a person upon whom a trust is imposed by that section except,

- (a) in the case of a claim by a contractor or subcontractor in cases not provided for in clauses *b*, *c* and *d*, within nine months after the completion or abandonment of the contract or subcontract;
- (b) in the case of a claim for materials, within nine months after the placing or furnishing of the last material;
- (c) in the case of a claim for services, within nine months after the completion of the service; or
- (d) in the case of a claim for wages, within nine months after the last work was done for which the claim is made. 1968-69, c. 65, s. 3.

Agreements
waiving
application
of Act
are void

4.—(1) Every agreement, oral or written, express or implied, on the part of any workman that this Act does not apply to him or that the remedies provided by it are not available for his benefit is void.

Exception

(2) Subsection 1 does not apply,

- (a) to a manager, officer or foreman; or
- (b) to any person whose wages are more than \$50 a day.

Effect upon
third party
of agreement
waiving lien

(3) No agreement deprives any person otherwise entitled to a lien under this Act, who is not a party to the agreement, of the benefit of the lien, but it attaches, notwithstanding such agreement. 1968-69, c. 65, s. 4.

CREATION OF LIENS

General
right to a
lien

5.—(1) Unless he signs an express agreement to the contrary and in that case subject to section 4, any person who does any work upon or in respect of, or places or furnishes any materials to be used in, the making, constructing, erecting, fitting, altering, improving or repairing of any land, building, structure or works or the appurtenances to any of them for any owner, contractor or subcontractor by virtue thereof has a lien for the price of the work or materials upon the estate or interest of the owner in the land, building, structure or works and appurtenances and the land

occupied thereby or enjoyed therewith, or upon or in respect of which the work is done, or upon which the materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner, and the placing or furnishing of the materials to be used upon the land or such other place in the immediate vicinity of the land designated by the owner or his agent is good and sufficient delivery for the purpose of this Act, but delivery on the designated land does not make such land subject to a lien.

(2) Except for the purpose of section 11, the lien given by subsection 1 does not attach to any public street or highway or to any work or improvement done thereon. Exception

(3) The lien given by subsection 1 attaches as therein set out where the materials delivered to be used are incorporated into the land, building, structure or works, notwithstanding that the materials may not have been delivered in strict accordance with subsection 1. Lien attaches where materials incorporated into building

(4) In subsection 1, "agent" includes the contractor or subcontractor for whom the materials are placed or furnished, unless the person placing or furnishing the materials has had actual notice from the owner to the contrary. Interpretation

(5) A person who rents equipment to an owner, contractor or subcontractor for use on a contract site shall be deemed for the purposes of this Act to have performed a service for which he has a lien for the price of the rental of the equipment used on the contract site, limited, however, in amount to the sum justly owed and due to the person entitled to the lien from the owner, builder, contractor or subcontractor in respect of the rental of the equipment. 1968-69, c. 65, s. 5. Lien for rented equipment

6. Where work is done or materials are placed or furnished to be used upon or in respect of the land of a married woman, or in which she has an interest or an inchoate right of dower, with the privity or consent of her husband, he shall be presumed conclusively to be acting as her agent as well as for himself for the purposes of this Act unless before doing the work or placing or furnishing the materials the person doing the work or placing or furnishing the materials has had actual notice to the contrary. 1968-69, c. 65, s. 6. When husband's interest liable for work done or materials furnished on land of spouse

7.—(1) Where the estate or interest upon which the lien attaches is leasehold, the fee simple is also subject to the lien if the person doing the work or placing or furnishing the materials gives notice in writing, by personal service, to the owner in fee simple or his agent of the work to be done or materials to be placed or furnished unless the owner in fee simple or his agent within fifteen Where estate charged is leasehold

days thereafter gives notice in writing, by personal service, to such person that he will not be responsible therefor.

Forfeiture
or cancella-
tion of
lease, effect
of on lien-
holder

(2) No forfeiture or attempted forfeiture of the lease on the part of the landlord, or cancellation or attempted cancellation of the lease except for non-payment of rent, deprives any person otherwise entitled to a lien of the benefit of the lien, but the person entitled to the lien may pay any rent accruing after he becomes so entitled, and the amount so paid may be added to his claim.

Prior
mortgages

(3) Where the land and premises upon or in respect of which any work is done or materials are placed or furnished are encumbered by a mortgage or other charge that was registered in the proper registry office before any lien under this Act arose, the mortgage or other charge has priority over all liens under this Act to the extent of the actual value of the land and premises at the time the first lien arose, such value to be ascertained by the judge or officer having jurisdiction to try an action under this Act.

When first
lien arose

(4) The time at which the first lien arose shall be deemed to be the time at which the first work was done or the first materials placed or furnished, irrespective of whether a claim for lien in respect thereof is registered or enforced and whether or not such lien is before the court.

Future
advances

(5) Any mortgage existing as a valid security, notwithstanding that it is a prior mortgage within the meaning of subsection 3, may also secure future advances, subject to subsection 1 of section 14.

Registered
agreement
for sale and
purchase of
land has
same priority
as mortgage

(6) A registered agreement for the sale and purchase of land and any moneys *bona fide* secured or payable thereunder has the same priority over a lien as is provided for a mortgage and mortgage moneys in subsections 3 and 5, and for the purposes of this Act the seller shall be deemed to be a mortgagee, and any moneys *bona fide* secured and payable under such agreement shall be deemed to be mortgage moneys *bona fide* secured or advanced. 1968-69, c. 65, s. 7.

Application
of insurance

8. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and is, after satisfying any prior mortgage or charge in the manner and to the extent set out in subsection 3 of section 7, subject to the claims of all persons for liens to the same extent as if the money had been realized by a sale of the property in an action to enforce the lien. 1968-69, c. 65, s. 8.

Limit of
amount of
owner's
liability

9. Save as herein otherwise provided, the lien does not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. 1968-69, c. 65, s. 9.

10. Save as herein otherwise provided, where the lien is claimed by any person other than the contractor, the amount that may be claimed in respect thereof is limited to the amount owing to the contractor or subcontractor or other person for whom the work has been done or the materials were placed or furnished. 1968-69, c. 65, s. 10.

Limit of
lien when
claimed by
other
than con-
tractor

11.—(1) In all cases, the person primarily liable upon a contract under or by virtue of which a lien may arise shall, as the work is done or the materials are furnished under the contract, retain for a period of thirty-seven days after the completion or abandonment of the work done or to be done under the contract 15 per cent of the value of the work and materials actually done, placed or furnished, as mentioned in section 5, irrespective of whether the contract or subcontract provides for partial payments or payment on completion of the work, and the value shall be calculated upon evidence given in that regard on the basis of the contract price or, if there is no specific contract price, on the basis of the actual value of the work or materials.

Holdback

(2) Where a contract is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made and thirty-seven days have elapsed after a certificate issued by that architect, engineer or other person to the effect that the subcontract has been completed to his satisfaction has been given to the person primarily liable upon that contract and to the person who became a subcontractor by a subcontract made directly under that contract, the amount to be retained by the person primarily liable upon that contract shall be reduced by 15 per cent of the subcontract price or, if there is no specific subcontract price, by 15 per cent of the actual value of the work done or materials placed or furnished under that subcontract, but this subsection does not operate if and so long as any lien derived under that subcontract is preserved by anything done under this Act.

Reduction
in amount
retained

(3) Where a certificate issued by an architect, engineer or other person to the effect that a subcontract by which a subcontractor became a subcontractor has been completed to the satisfaction of that architect, engineer or other person has been given to that subcontractor, then, for the purposes of subsections 1, 2 and 3 of section 21 and section 23, that subcontract and any materials placed or furnished or to be placed or furnished thereunder and any work done or to be done thereunder shall, so far as concerns any lien thereunder of that subcontractor, be deemed to have been completed or placed or furnished not later than the time at which the certificate was so given.

Idem

(4) Where an architect, engineer or other person neglects or refuses to issue and deliver a certificate upon which payments are

Court order
in lieu of
certificate

to be made under a contract or subcontract, the judge or officer having jurisdiction to try an action under this Act, upon application and upon being satisfied that the certificate should have been issued and delivered may, upon such terms and conditions as to costs and otherwise as he deems just, make an order that the work or materials to which the certificate would have related has been done or placed or furnished, as the case may be, and any such order has the same force and effect as if the certificate had been issued and delivered by the architect, engineer or other person.

Effect of
liens and
claims on
amounts
retained

(5) Where there is a lien under section 5, the lien is a charge upon the amount directed to be retained by this section in favour of lien claimants whose liens are derived under persons to whom the moneys so required to be retained are respectively payable, and where there is no lien on the land by virtue of subsection 2 of section 5, a claim for work done or materials placed or furnished is a charge upon the amount directed to be retained by this section.

Payments
made in
good faith
without
notice of
lien

(6) All payments up to 85 per cent as fixed by subsection 1 and payments permitted as a result of the operation of subsections 2 and 3 made in good faith by an owner to a contractor, or by a contractor to a subcontractor, or by one subcontractor to another subcontractor, before notice in writing of the lien given by the person claiming the lien to the owner, contractor or subcontractor, as the case may be, operate as a discharge *pro tanto* of the lien.

Payment of
percentage
and
discharge
of liens

(7) Payment of the percentage required to be retained under this section may be validly made so as to discharge all claims in respect of such percentage after the expiration of the period of thirty-seven days mentioned in subsection 1 unless in the meantime proceedings have been commenced to enforce any lien or charge against the percentage as provided by sections 22 and 23, in which case the owner may pay the percentage into court in the proceedings, and such payment constitutes valid payment in discharge of the owner to the amount thereof.

Amendment
of contracts

(8) Every contract shall be deemed to be amended in so far as is necessary to be in conformity with this section.

Where
percentage
not to be
applied

(9) Where the contractor or subcontractor makes default in completing his contract, the percentage required to be retained shall not, as against any lien claimant who by virtue of subsection 5 has a charge thereupon, be applied by the owner, contractor or subcontractor to the completion of the contract or for any other purpose nor to the payment of damages for the non-completion of the contract by the contractor or subcontractor nor in payment or satisfaction of any claim against the contractor or subcontractor. 1968-69, c. 65, s. 11.

12. If an owner, contractor or subcontractor makes a payment to any person entitled to a lien under section 5 or to any person who but for subsection 2 of that section would be entitled to a lien under that section, for or on account of any debt, justly due to him for work done or for materials placed or furnished to be used as therein mentioned, for which he is not primarily liable, and within three days afterwards gives written notice of the payment to the person primarily liable, or his agent, the payment shall be deemed to be a payment on his contract generally to the contractor or subcontractor primarily liable but not so as to affect the percentage to be retained by the owner as provided by section 11. 1968-69, c. 65, s. 12.

Payments made directly by owner to persons entitled to lien

13. Every subcontractor is entitled to enforce his lien notwithstanding the non-completion or abandonment of the contract by any contractor or subcontractor under whom he claims. 1968-69, c. 65, s. 13.

Rights of subcontractor

14.—(1) The lien has priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after the lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of the lien has been given to the person making such payments or after registration of a claim for the lien as hereinafter provided, and, in the absence of such notice in writing or the registration of a claim for lien, all such payments or advances have priority over any such lien.

Priority of lien

(2) Except where it is otherwise provided by this Act, no person entitled to a lien on any property or money is entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lienholders ranks *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights

Priority among lienholders

(3) Any conveyance, mortgage or charge of or on land given to any person entitled to a lien thereon under this Act in payment of or as security for any such claim, whether given before or after such lien claim has arisen, shall, as against other parties entitled to liens under this Act, on any such land be deemed to be fraudulent and void. 1968-69, c. 65, s. 14.

Mortgage given to person entitled to lien void as against lienholders

PRIORITY OF WAGES

15.—(1) Every workman whose lien is for wages has priority to the extent of thirty days wages over all other liens derived through the same contractor or subcontractor to the extent of and on the 15 per cent directed to be retained by section 11 to which the contractor or subcontractor through whom the lien is derived is entitled, and all such workmen rank thereon *pari passu*.

Priority of liens for wages

Enforcing
lien in
such cases

(2) Every workman is entitled to enforce a lien in respect of any contract or subcontract that has not been completed and, notwithstanding anything to the contrary in this Act, may serve a notice of motion on the proper persons, returnable in four days after service thereof before the judge or officer having jurisdiction to try an action under this Act, that the applicant will on the return of the motion ask for judgment on his claim for lien, registered particulars of which shall accompany the notice of motion duly verified by affidavit.

Calculating
percentage
when con-
tract not
fulfilled

(3) If the contract has not been completed when the lien is claimed by a workman, the percentage shall be calculated on the value of the work done or materials placed or furnished by the contractor or subcontractor by whom the workman is employed, having regard to the contract price, if any.

Devices to
defeat
priority of
workmen

(4) Every device by an owner, contractor or subcontractor to defeat the priority given to a workman for his wages and every payment made for the purpose of defeating or impairing a lien are void. 1968-69, c. 65, s. 15.

REGISTRATION

Registration
of claim
for lien

16.—(1) A claim for a lien may be registered in the proper registry office and shall set out,

- (a) the name and an address for service of the person claiming the lien and of the owner or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work was or is to be done, or the materials were or are to be placed or furnished, and the time within which the same was or was to be done or placed or furnished;
- (b) a short description of the work done or to be done, or the materials placed or furnished or to be placed or furnished;
- (c) the sum claimed as due or to become due;
- (d) a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be; and
- (e) the date of expiry of the period of credit if credit has been given.

R.S.O. 1970,
cc. 234, 409

Verification
of claim

(2) The claim shall be verified in duplicate by the affidavit of the person claiming the lien, or of his agent or assignee who has a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

(3) When it is desired to register a claim for lien against a railway, it is sufficient description of the land of the railway company to describe it as the land of the railway company, and every such claim shall be registered in the general register in the office for the registry division within which the lien is claimed to have arisen. 1968-69, c. 65, s. 16.

Lien
against
railway

17.—(1) A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but, where more than one lien is included in one claim, each claim for lien shall be verified by affidavit as provided in section 16.

What may
be included
in claim

(2) The judge or officer trying the action has jurisdiction equitably to apportion against the respective properties the amounts included in any claim or claims under subsection 1. 1968-69, c. 65, s. 17.

Apportion-
ment of
claims

18.—(1) Substantial compliance with sections 16, 17 and 29 is sufficient and no claim for lien is invalidated by reason of failure to comply with any of the requirements of such sections unless, in the opinion of the judge or officer trying the action, the owner, contractor or subcontractor, mortgagee or other person is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

Informality

(2) Nothing in this section dispenses with the requirement of registration of the claim for lien. 1968-69, c. 65, s. 18.

Registration
necessary

19. A duplicate of the claim for lien, bearing the registrar's certificate of registration, shall be filed on or before the trial of the action, where the action is to be tried in the Judicial District of York, in the office of the master of the Supreme Court, or, where the action is to be tried elsewhere, in the office of the clerk of the county or district court of the county or district in which the action is to be tried. 1968-69, c. 65, s. 19, *amended*.

Duplicate to
be filed

20. Where a claim is so registered, the person entitled to a lien shall be deemed to be a purchaser *pro tanto* and a purchaser within the provisions of *The Registry Act* and *The Land Titles Act*, but, except as herein otherwise provided, those Acts do not apply to any lien arising under this Act. 1968-69, c. 65, s. 20.

Status
of lien
claimant
R.S.O. 1970,
cc. 409, 234

21.—(1) A claim for lien by a contractor or subcontractor in cases not otherwise provided for may be registered before or during the performance of the contract or of the subcontract or within thirty-seven days after the completion or abandonment of the contract or of the subcontract, as the case may be.

Limit of
time for
registration

(2) A claim for lien for materials may be registered before or during the placing or furnishing thereof, or within thirty-seven

Materials

days after the placing or furnishing of the last material so placed or furnished.

Services

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty-seven days after the completion of the service.

Wages

(4) A claim for lien for wages may be registered at any time during the doing of the work for which the wages are claimed or within thirty-seven days after the last work was done for which the lien is claimed.

Notice of
claim to
hold back

(5) Where there is no lien on the land by virtue of subsection 2 of section 5, any person who is asserting a claim under subsection 5 of section 11 for work done or materials placed or furnished shall give notice in writing of his claim to the owner, to every person in whose hands are sums retained under section 11 to which his claim may relate and to the municipality in which the land is situate within thirty-seven days after the completion or abandonment of the work or the placing or furnishing of the materials. 1968-69, c. 65, s. 21.

EXPIRY AND DISCHARGE

Expiry of
liens

22.—(1) Every lien for which a claim is not registered ceases to exist on the expiration of the time limited in section 21 for the registration thereof.

Registration
of certificate
of action

(2) Upon an action under this Act being commenced, a certificate thereof shall be registered in the registry office in which the claim for lien is registered. 1968-69, c. 65, s. 22 (1, 2).

Vacating
orders

(3) Where a certificate of action has been registered for two years or more in the registry office and no appointment has been taken out for the trial of the action, the judge or, in the Judicial District of York, the master, may, upon the application *ex parte* of any interested person, make an order vacating the certificate of action and discharging all liens depending thereon. 1969-69, c. 65, s. 22 (3); 1970, c. 41, s. 1, *amended*.

When lien
to cease
if registered
and not
proceeded
upon

23.—(1) Every lien for which a claim is registered ceases to exist on the expiration of ninety days after the work has been completed or the materials have been placed or furnished, or after the expiry of the period of credit, where such period is mentioned in the registered claim for lien, unless in the meantime an action is commenced to realize the claim or in which a subsisting claim may be realized, and a certificate is registered as provided by section 22.

Expiration
of claim

(2) Every claim asserted under subsection 5 of section 11 for work done or materials placed or furnished ceases to exist on the expiration of ninety days after,

(a) the work has been completed or abandoned;

- (b) the materials have been placed or furnished; or
- (c) the expiry of the period of credit, where such period is mentioned in the notice referred to in subsection 5 of section 21.

unless in the meantime an action under this Act is commenced to realize the claim or in which a subsisting claim may be realized.

(3) Subsection 2 of section 22 does not apply to an action referred to in subsection 2, but sections 29, 30, 31, 32 and 34 to 38 apply *mutatis mutandis* to such an action. 1968-69, c. 65, s. 23.

24. The rights of a lien claimant may be assigned by an instrument in writing and, if not assigned, upon his death pass to his personal representative. 1968-69, c. 65, s. 24.

25.—(1) A claim for lien may be discharged by the registration of a receipt acknowledging payment,

- (a) where made by a lien claimant that is not a corporation, signed by the lien claimant or his agent duly authorized in writing and verified by affidavit; or
- (b) where made by a lien claimant that is a corporation sealed with its corporate seal. 1968-69, c. 65, s. 25 (1).

(2) Upon application, the judge or, in the Judicial District of York, the master, may, at any time,

- (a) allow security for or payment into court of the amount of the claim of the lien claimant and the amount of the claims of any other subsisting lien claimants together with such costs as he may fix, and thereupon order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated;
- (b) upon any other proper ground, order that the registration of the claim for lien or liens and the registration of the certificate of action, if any, be vacated; or
- (c) upon proper grounds, dismiss the action. 1968-69, c. 65, s. 25, (2); 1970, c. 41, s. 2 (1), *amended*.

(3) Notwithstanding sections 22 and 23, where an order to vacate the registration of a lien is made under clause *a* or *b* of subsection 2, the lien does not cease to exist for the reason that no certificate of action is registered.

(4) Any money so paid into court, or any bond or other security for securing the like amount and satisfactory to the judge or officer, takes the place of the property discharged and is subject to the claims of every person who has at the time of the application a subsisting claim for lien or given notice of the claim under subsection 6 of section 11 or section 14 to the same extent as

Idem

Assignment
or death of
lien
claimantDischarge
of lienSecurity or
payment
into court
and vacating
lien and
certificate
of actionEffect of
order under
subs. 2,
cl. *a* or *b*Money paid
into court

if the money, bond or other security was realized by a sale of the property in an action to enforce the lien, but such amount as the judge or officer finds to be owing to the person whose lien has been so vacated is a first charge upon the money, bond or other security.

Where notice of application to vacate not requisite

(5) Where the certificate required by section 22 or 23 has not been registered within the prescribed time and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate, the order vacating the lien may be made *ex parte* upon production of a certificate of search under *The Land Titles Act* or of a registrar's abstract under *The Registry Act*, as the case may be, together with a certified copy of the registered claim for lien. 1968-69, c. 65, s. 25 (3-5).

R.S.O. 1970, cc. 234, 409

Payment of money out of court

(6) Where money has been paid into court or a bond deposited in court pursuant to an order under subsection 2, the judge or, in the Judicial District of York, the master, may, upon such notice to the parties as he may require, order the money to be paid out to the persons entitled thereto or the delivery up of the bond for cancellation, as the case may be. 1968-69, c. 65, s. 25 (6); 1970, c. 41, s. 2 (2), *amended*.

Registration number

(7) An order discharging a claim for lien or vacating a certificate of action shall be registered by registering the order or a certificate thereof, under the seal of the court, that includes a description of the land as required by *The Land Titles Act* or *The Registry Act* and the regulations thereunder, as the case may be, and a reference to the registration number of every registered claim for lien and certificate of action affected thereby. 1968-69, c. 65, s. 25 (7).

EFFECT OF TAKING SECURITY OR EXTENDING TIME

Effect generally

26.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, does not merge, waive, pay, satisfy, prejudice or destroy the lien unless the lien claimant agrees in writing that it has that effect.

Where period of credit not expired

(2) Where any such promissory note or bill of exchange has been negotiated, the lien claimant does not thereby lose his right to claim for lien if, at the time of bringing his action to enforce it or where an action is brought by another lien claimant, he is, at the time of proving his claim in the action, the holder of such promissory note or bill of exchange.

Time for bringing action not extended

(3) Nothing in subsection 2 extends the time limited by this Act for bringing an action to enforce a claim for lien.

(4) A person who has extended the time for payment of a claim for which he has a claim for lien in order to obtain the benefit of this section shall commence an action to enforce the claim within the time prescribed by this Act and shall register a certificate as required by sections 22 and 23, but no further proceedings shall be taken in the action until the expiration of such extension of time. 1968-69, c. 65, s. 26.

Time for bringing action by person who gave time for payment

27. Where the period of credit in respect of a claim has not expired or there has been an extension of time for payment of the claim, the lien claimant may nevertheless, if an action is commenced by any other person to enforce a claim for lien against the same property, prove and obtain payment of his claim in the action as if the period of credit or the extended time had expired. 1968-69, c. 65, s. 27.

Proving claim in action by another person

LIEN CLAIMANT'S RIGHTS TO INFORMATION

28.—(1) Any lien claimant may in writing at any time demand of the owner or his agent the production, for inspection, of the contract or agreement with the contractor for or in respect of which the work was or is to be done or the materials were or are to be placed or furnished, if the contract or agreement is in writing or, if not in writing, the terms of the contract or agreement and the state of the accounts between the owner and the contractor, and, if the owner or his agent does not, at the time of the demand or within a reasonable time thereafter, produce the contract or agreement if in writing or, if not in writing, does not inform the person making the demand of the terms of the contract or agreement and the amount due and unpaid upon the contract or agreement or if he knowingly falsely states the terms of the contract or agreement or the amount due or unpaid thereon and if the person claiming the lien sustains loss by reason of the refusal or neglect or false statement, the owner is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies.

Production of contract or agreement

(2) Any lien claimant may in writing at any time demand of a mortgagee or unpaid vendor or his agent the terms of any mortgage on the land or of any agreement for the purchase of the land in respect of which the work was or is to be done or the materials were or are to be placed or furnished and a statement showing the amount advanced on the mortgage or the amount owing on the agreement, as the case may be, and, if the mortgagee or vendor or his agent fails to inform the lien claimant at the time of the demand or within a reasonable time thereafter of the terms of the mortgage or agreement and the amount advanced or owing thereon or if he knowingly falsely states the terms of the mortgage or agreement and the amount owing thereon and the lien claimant

Statement of mortgagee or unpaid vendor

sustains loss by the refusal or neglect or misstatement, the mortgagee or vendor is liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 38 applies. 1968-69, c. 65, s. 28 (1. 2).

Production
of contract
or agreement

(3) The judge or, in the Judicial District of York, the master, may, on a summary application at any time before or after an action is commenced for the enforcement of the claim for lien, make an order requiring the owner or his agent or the mortgagee or his agent or the unpaid vendor or his agent or the contractor or his agent or the subcontractor or his agent, as the case may be, to produce and permit any lien claimant to inspect any such contract or agreement or mortgage or agreement for sale or the accounts or any other relevant document upon such terms as to costs as the judge or master considers just. 1970, c. 41, s. 3, *amended*.

ACTIONS

How claim
enforceable

29.—(1) A claim for lien is enforceable in an action in the Supreme Court.

Statement
of claim,
filing of

(2) An action under this section shall be commenced by filing a statement of claim in the office of the local registrar of the Supreme Court in the county or district in which the land or part thereof is situate.

Idem,
service

(3) The statement of claim shall be served within thirty days after it is filed, but the judge having jurisdiction to try the action or, in the Judicial District of York, the master, may extend the time for service.

Statement
of defence

(4) The time for delivering the statement of defence in the action shall be the same as for entering an appearance in an action in the Supreme Court.

Parties

(5) It is not necessary to make any lien claimants parties defendant to the action, but all lien claimants served with the notice of trial shall for all purposes be deemed to be parties to the action.

Motion
to speed
trial

(6) After the commencement of the action, any lien claimant or other person interested may apply to the judge having jurisdiction to try the action or, in the Judicial District of York, a judge of the Supreme Court, to speed the trial of the action. 1968-69, c. 65, s. 29, *amended*.

Lien
claimants
joining in
action

30. Any number of lien claimants claiming liens on the same land may join in an action, and an action brought by a lien claimant shall be deemed to be brought on behalf of himself and all other lien claimants. 1968-69, c. 65, s. 30.

31.—(1) Except in the Judicial District of York, the action shall be tried by the local judge of the Supreme Court in the county or district in which the action was commenced, but, upon the application of any party or other interested person made according to the practice of the Supreme Court and upon notice, the court may direct that the action be tried by a judge of the Supreme Court at the regular sittings of the court for the trial of actions in the county or district in which the action was commenced.

Tribunal
and place
of trial

(2) In the Judicial District of York, the action shall be tried by a judge of the Supreme Court, but,

Idem,
York

(a) on motion after defence or defence to counterclaim, if any, has been delivered or the time for such delivery has expired, a judge of the Supreme Court may refer the whole action to the master for trial pursuant to section 72 of *The Judicature Act*; or

R.S.O. 1970,
c. 228

(b) at the trial, a judge of the Supreme Court may direct a reference to the master pursuant to section 71 or 72 of *The Judicature Act*.

(3) Where on motion the whole action is referred to the master for trial, any person brought into the proceedings subsequent thereto and served with a notice of trial may apply to a judge of the Supreme Court to set aside the judgment directing the reference within seven days after service of notice of trial and, if such person fails to make such application, he is bound by such judgment as if he were originally a party thereto.

Application
to set aside
judgment
directing a
reference

(4) Where the action is referred to the master for trial, he may grant leave to amend any pleading. 1968-69, c. 65, s. 31.

Amend-
ment of
pleadings
on reference

32. The local judges of the Supreme Court and the master to whom a reference for trial has been directed, in addition to their ordinary powers, have all the jurisdiction, powers and authority of the Supreme Court to try and completely dispose of the action and questions arising therein and all questions of set-off and counterclaim arising under the building contract or out of the work done or materials furnished to the property in question. 1968-69, c. 65, s. 32.

Powers of
local
judges
S.C.O., etc.

33. Where an owner enters into an entire contract for the supply of materials to be used in several buildings, the person supplying the materials may ask to have his lien follow the form of the contract and that it be for an entire sum upon all the buildings, but, in case the owner has sold one or more of the buildings, the judge or officer trying the action has jurisdiction equitably to apportion against the respective buildings the

Where con-
tract covers
several
buildings

amount included in the claim for lien under the entire contract. 1968-69, c. 65, s. 33.

Power to
appoint a
receiver of
rents and
profits

34.—(1) At any time after the delivery of the statement of claim, the judge having jurisdiction to try the action or, in the Judicial District of York, a judge of the Supreme Court, may, on the application of any lien claimant, mortgagee or other person interested, appoint a receiver of the rents and profits of the property against which the claim for lien is registered upon such terms and upon the giving of such security or without security as the judge considers just.

Power to
direct
sale and
appoint
trustee

(2) Any lien claimant, mortgagee or other person interested may make an application to the judge having jurisdiction to try the action or, in the Judicial District of York, a judge of the Supreme Court, at any time before or after judgment, who may hear *viva voce* or affidavit evidence or both and appoint, upon such terms and upon the giving of such security or without security as the judge considers just, a trustee or trustees with power to manage, mortgage, lease and sell, or manage, mortgage, lease or sell, the property against which the claim for lien is registered, and the exercise of such powers shall be under the supervision and direction of the court, and with power, when so directed by the court, to complete or partially complete the property, and, in the event that mortgage moneys are advanced to the trustee or trustees as the result of any of the powers conferred upon him or them under this subsection, such moneys take priority over every claim of lien existing as of the date of the appointment.

Property
offered
for sale

(3) Any property directed to be sold under subsection 2 may be offered for sale subject to any mortgage or other charge or encumbrance if the judge so directs. 1970, c. 41, s. 4 (1), *amended*.

Proceeds
to be paid
into court

(4) The proceeds of any sale made by a trustee or trustees under subsection 2 shall be paid into court and are subject to the claims of all lien claimants, mortgagees or other persons interested in the property so sold as their respective rights are determined, and, in so far as applicable, section 39 applies. 1968-69, c. 65, s. 34 (4).

Orders for
completion
of sale

(5) The judge shall make all necessary orders for the completion of any mortgage, lease or sale authorized to be made under subsection 2. 1968-69, c. 65, s. 34 (5); 1970, c. 41, s. 4 (2).

Vesting
of title

(6) Any vesting order made of property sold by a trustee or trustees appointed under subsection 2 vests the title of the property free from all claims for liens, encumbrances and interests of any kind including dower, except in cases where sale is made subject to any mortgage, charge, encumbrance or interest as

hereinbefore provided, but nothing in this section or elsewhere in this Act shall be deemed to extinguish the right to dower, if any, of any married woman or the right to have the value of her dower ascertained and deducted from the proceeds of the sale so paid into court. 1968-69, c. 65, s. 34 (6).

35. At any time after delivery of the statement of claim and before judgment, or after judgment and pending the hearing and determination of any appeal, any lien claimant, mortgagee or other interested person may make an application to the judge having jurisdiction to try the action or who tried the action, as the case may be, or, in the Judicial District of York, a judge of the Supreme Court, who may hear *viva voce* or affidavit evidence or both and make an order for the preservation of any property pending the determination of the action and any appeal. 1970, c. 41, s. 5, *amended*.

Order for
preservation
of property

36. Where more actions than one are brought to realize liens in respect of the same land, the judge or officer having jurisdiction to try the action may, on the application of any party to any one of the actions or on the application of any other person interested, consolidate all such actions into one action and award the conduct of the consolidated action to any plaintiff as the judge or officer considers just. 1968-69, c. 65, s. 36.

Consolida-
tion of
actions

37. Any lien claimant entitled to the benefit of an action may at any time apply to the judge or officer having jurisdiction to try the action for the carriage of the proceedings, and the judge or officer may make an order awarding such lien claimant the carriage of the proceedings. 1968-69, c. 65, s. 37.

Transferring
carriage of
proceedings

38.—(1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, either party may apply *ex parte* to a judge or officer having jurisdiction to try the action to fix a day for the trial thereof, and the judge or officer shall appoint the time and place of trial, and the order, signed by the judge or officer, shall form part of the record of the proceedings.

Appointing
day for
trial

(2) The party obtaining an appointment for the trial shall, at least ten clear days before the day appointed, serve notice of trial upon the solicitors for the defendants who appear by solicitors and upon the defendants who appear in person, and upon all the lienholders who have registered their claims as required by this Act or of whose claims he has notice, and upon all other persons having any charge, encumbrance or claim on the land subsequent in priority to the lien, who are not parties, and such service shall be personal unless otherwise directed by the judge or officer who may direct in what manner the notice of trial is to be served.

Notice of
trial and
service

Idem

(3) Where any person interested in the land has been served with a statement of claim and makes default in delivering a statement of defence, he shall nevertheless be served with notice of trial and is entitled to defend on such terms as to costs and otherwise as the judge or officer having jurisdiction to try the action considers just.

Trial

(4) The judge, or where a reference for trial is directed, the master,

(a) shall try the action, including any set-off and counter-claim, and all questions that arise therein or that are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom notice of trial has been served;

(b) shall take all accounts, make all inquiries, give all directions and do all other things necessary to finally dispose of the action and of all matters, questions and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial; and

(c) shall embody the results of the trial,
(i) in the case of a judge, in a judgment, and
(ii) in the case of a master, in a report,

which judgment or report may direct payment forthwith by the person or persons primarily liable to pay the amount of the claims and costs as ascertained by the judgment or report, and execution may be issued therefor forthwith in the case of a judgment and after confirmation thereof, in the case of a report.

Power to
vary form of
judgment

(5) The form of the judgment or report may be varied by the judge or officer in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he may be entitled.

Sale

(6) The judge or officer may order that the estate or interest charged with the lien be sold, and may direct the sale to take place at any time after judgment or confirmation of the report, allowing, however, a reasonable time for advertising the sale.

Letting in
lien
claimants

(7) A lien claimant who did not prove his claim at the trial, on application to the judge or officer before whom the action or reference was tried, may be let in to prove his claim, on such terms as to costs and otherwise as are deemed just, at any time before the amount realized in the action for the satisfaction of liens has

been distributed, and, where his claim is allowed, the judgment or report shall be amended so as to include his claim.

(8) Any lien claimant for an amount not exceeding \$200 may be represented by an agent who is not a barrister and solicitor.

Right of
lien
claimants
to repre-
sentation

(9) An action or reference under this Act may be tried by any judge or officer having jurisdiction to try the action or reference notwithstanding that the time and place for the trial or reference thereof were appointed and fixed by another judge or officer. 1968-69, c. 65, s. 38 (1-9).

Action may
be tried by
any judge

(10) Any party to an action under this Act or any other interested person may at any time and from time to time apply to the judge having jurisdiction to try the action or, in the Judicial District of York, the master, for directions as to pleadings, discovery, production or any other matter relating to the action or reference, including the cross-examination of a lien claimant or his agent or assignee on his affidavit verifying the claim. 1970, c. 41, s. 6, *amended*.

Applications
for
directions

39.—(1) Where a sale is had, the moneys arising therefrom shall be paid into court to the credit of the action, and the judge or officer before whom the action was tried shall direct to whom the moneys in court shall be paid and may add to the claim of the person conducting the action his fees and actual disbursements incurred in connection with the sale, and, where sufficient to satisfy the judgment and costs is not realized from the sale, he shall certify the amount of the deficiency and the names of the persons who are entitled to recover the same, showing the amount that each is entitled to recover and the persons adjudged to pay the same, giving credit for payments made, if any, under subsection 4 of section 38, and the persons so entitled may enforce payment of the amounts so found to be due by execution or otherwise.

Report
where sale
is had

(2) The judge or officer before whom the action was tried may make all necessary orders for the completion of the sale and for vesting the property in the purchaser. 1968-69, c. 65, s. 39.

Completion
of sale

40. Where a lien claimant fails to establish a lien, he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party. 1968-69, c. 65, s. 40.

Where
lien not
established

41. Where property subject to a lien is sold in an action to enforce a lien, every lienholder is entitled to share in the proceeds of the sale in respect of the amount then owing to him, although

Right of
lienholders
whose claims
are not
payable to
share in
proceeds

the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable. 1968-69, c. 65, s. 41.

STATED CASE

Stated case

42.—(1) If in the course of proceedings to enforce a lien a question of law arises, the judge or officer trying the case may, at the request of any party, state the question in the form of a stated case for the opinion of the Court of Appeal, and the stated case shall thereupon be set down to be heard before the Court of Appeal and notice of hearing shall be served by the party setting down upon all parties concerned.

Trans-
mission of
papers

(2) The stated case shall set forth the facts material for the determination of the question raised, and all papers necessary for the hearing of the stated case by the Court of Appeal shall be transmitted to the registrar of the Supreme Court. 1968-69, c. 65, s. 42.

APPEAL

Appeal

43.—(1) Except where the amount of a judgment or report made on a reference for trial in respect of a claim or counterclaim is \$200 or less, an appeal lies from any judgment or report under this Act to the Court of Appeal. 1968-69, c. 65, s. 43 (1); 1970, c. 41, s. 7.

Appeal from
reference

(2) Where a question is referred to the master for inquiry and report under subsection 2 of section 31, an appeal lies in the manner prescribed by the rules of court.

Confirma-
tion of
master's
report

(3) Where an action is referred to the master for trial under subsection 2 of section 31, the report shall be filed and shall be deemed to be confirmed at the expiration of fifteen days from the date of service of notice of filing the same, unless notice of appeal is served within that time.

Appeal
from
judgment
or report

(4) An appeal from a judgment or report made on a reference for trial lies in like manner and to the same extent as from the decision of a judge trying an action in the Supreme Court without a jury.

Costs of
appeal

(5) The costs of an appeal shall not be governed by subsections 2 and 3 of section 45 but, subject to any order of the Court of Appeal, shall be upon the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court, and, where it exceeds that amount, upon the Supreme Court scale. 1968-69, c. 65, s. 43 (2-5).

FEEES AND COSTS

Fee

44. The fee payable by every plaintiff, every plaintiff by counterclaim and every lien claimant, including every person

recovering a personal judgment, in any action to realize a lien under this Act is,

- (a) \$5 on a claim or counterclaim not exceeding \$500;
- (b) \$10 on a claim or counterclaim exceeding \$500 but not exceeding \$1,000;
- (c) \$10 on a claim or counterclaim exceeding \$1,000, plus \$1 for every \$1,000 or fraction thereof in excess of \$1,000,

but no fee is payable on a claim for wages only, and in no case shall the fee on a claim exceed \$75 or on a counterclaim exceed \$25. 1968-69, c. 65, s. 44.

45.—(1) Subject to subsections 2, 3, 4 and 5, any order as to costs in an action under this Act is in the discretion of the judge or officer who tries the action. Costs not otherwise provided for

(2) The costs of the action, exclusive of actual disbursements, awarded to the plaintiffs and successful lienholders, shall not exceed in the aggregate 25 per cent of the total amount found to have been actually due on the liens at the time of the registration thereof, and shall be apportioned and borne in such proportion as the judge or officer who tries the action may direct, but in making the apportionment he shall have regard to the actual services rendered by or on behalf of the parties respectively, provided that, where a counterclaim is set up by a defendant, the amount and apportionment of the costs in respect thereof are in the discretion of the judge or officer who tries the action. Limit of costs to plaintiffs

(3) Where costs are awarded against the plaintiff or other persons claiming liens, they shall not exceed, except in the case of a counterclaim, 25 per cent of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the judge or officer who tries the action may direct. Limit of costs against plaintiffs

(4) Where the least expensive course is not taken by a plaintiff, the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken. Costs where least expensive course not taken

(5) Where a lien is discharged or vacated under section 25 or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the judge or officer who tries the action may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof, but this does not apply where the claimant fails to establish a valid lien. 1968-69, c. 65, s. 45. Cost of drawing and registering and vacating registration of lien

RULES OF PRACTICE

46.—(1) The object of this Act being to enforce liens at the least expense, the procedure shall be as far as possible of a Rules of practice

summary character, having regard to the amount and nature of the liens in question. 1968-69, c. 65, s. 46 (1).

Inter-
locutory
proceedings

(2) Except where otherwise provided by this Act, no interlocutory proceedings shall be permitted without the consent of the judge having jurisdiction to try the action or, in the Judicial District of York, the master, and then only upon proper proof that such proceedings are necessary. 1970, c. 41, s. 8, *amended*.

Assistance
of experts

(3) The judge or officer having jurisdiction to try the action may obtain the assistance of any merchant, accountant, actuary, building contractor, architect, engineer or person in such way as he deems fit, the better to enable him to determine any matter of fact in question, and may fix the remuneration of any such person and direct payment thereof by any of the parties.

Rules of
practice

(4) Unless otherwise provided in this Act, the Rules of Practice and Procedure of the Supreme Court apply to proceedings under this Act. 1968-69, c. 65, s. 46 (3, 4).

SERVICE OF DOCUMENTS

Service of
documents

47. Except where otherwise directed by the judge having jurisdiction to try the action or, in the Judicial District of York, the master, all documents relating to an action under this Act, other than statements of claim and notices of trial, are sufficiently served upon the intended recipient if sent by registered mail addressed to the intended recipient at his address for service. 1970, c. 41, s. 9, *amended*.

LIENS ON CHATTELS

Right of
chattel
lienholder
to sell
chattel

48.—(1) Every person who has bestowed money, skill or materials upon any chattel or thing in the alteration or improvement of its properties or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien upon the chattel or thing for the amount or value of the money or skill and material bestowed, has, while the lien exists but not afterwards, in case the amount to which he is entitled remains unpaid for three months after it ought to have been paid, the right, in addition to any other remedy to which he may be entitled, to sell by auction the chattel or thing on giving one week's notice by advertisement in a newspaper having general circulation in the municipality in which the work was done, setting forth the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if he is a resident of the municipality.

Application
of proceeds
of sale

(2) Such person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and

shall upon application pay over any surplus to the person entitled thereto. 1968-69, c. 65, s. 48.

FORMS

49. The Lieutenant Governor in Council may make regulations prescribing forms and providing for their use. 1968-69, c. 65, s. 49.

*Revised 1972
4/76
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CHAPTER 268

The Medical Act

1. The College of Physicians and Surgeons of Ontario, hereinafter called the College, is continued as a body corporate, with power to acquire, hold and dispose of real and personal property for the purposes of this Act. R.S.O. 1960, c. 234, s. 1. College of Physicians and Surgeons continued

2. Every person registered as a legally qualified medical practitioner under any Act heretofore passed or under this Act is a member of the College. R.S.O. 1960, c. 234, s. 2. Members thereof under former Acts

3.—(1) There shall continue to be a council of the College, hereinafter called the Council, to be composed as follows: Council of the College, composition

1. The Minister of Health. Minister of Health
2. One member to be chosen from every university, college or body in Ontario that is authorized to conduct a course or courses in the science and art of medicine and to grant degrees in the same and that is conducting actively such course or courses in medicine at the present time, or from every university, college or body in Ontario that is or may be hereafter authorized and established under the above conditions. Representatives from universities, colleges, etc.
3. Twelve members to be elected in the manner hereinafter provided from amongst and by the registered members of the profession other than those mentioned in paragraphs 1 and 2. Representatives of profession

(2) No teacher, professor or lecturer of any of the bodies mentioned in subsection 1 shall hold a seat in the Council except as a representative of the body to which he belongs. Restriction

(3) Every member of the Council appointed under subsection 1 shall be a legally qualified medical practitioner resident in Ontario. Members to be practitioners

(4) Each of the twelve members to be elected as aforesaid shall be a resident of the territorial division for which he is elected, and any member who, during the term for which he is elected, ceases to reside in the division for which he is elected thereby vacates his office as such member. Residence in division

(5) One member shall be elected from each territorial division numbered 1 to 9 inclusive in Schedule A by the registered practitioners of medicine resident in the division and three How divisions to be represented

members shall be elected from territorial division numbered 10 in Schedule A by the registered practitioners of medicine resident in that division.

Manner of
holding
election

(6) The manner of holding such election shall, with respect to the time thereof and the taking of votes therefor, be determined by by-law of the Council and, in default of such by-law being passed, the Lieutenant Governor in Council shall prescribe the time and manner of holding such election. R.S.O. 1960, c. 234, s. 3.

Term of
office

4.—(1) The members of the Council other than the Minister of Health shall be elected or appointed, as the case may be, for a period of four years or until their successors are elected or appointed.

Vacancies

(2) In the event that any member dies, resigns or becomes incapable of acting by reason of mental or physical illness, his seat *ipso facto* becomes vacant.

Declaration
of vacancy
to be
entered upon
minutes

(3) A declaration of the existence of a vacancy for the reasons mentioned in subsection 2 of this section or subsection 4 of section 3, entered upon the minutes of the Council, is conclusive evidence thereof.

Notice as
to vacancy

(4) In the event of a vacancy, the registrar shall forthwith notify the body in respect of which the vacancy has occurred and such body has the power to nominate another duly qualified person to fill the vacancy, or if the vacancy occurs in respect of any member elected from a territorial division, the registrar shall forthwith cause a new election to be held in such territorial division and the election shall be conducted in accordance with the by-laws and regulations of the Council.

Powers of
Council
during
vacancy

(5) During any vacancy it is lawful for the Council to exercise all its powers under this Act.

Notice of
date of
nomination

(6) The registrar shall, not more than sixty and not less than forty days before the time for receiving nominations for any quadrennial election under this Act, notify by letter or postcard every registered medical practitioner in Ontario of the date of receiving such nominations, and in case of an election to fill a vacancy the registrar shall, not more than thirty and not less than fifteen days before the time for receiving nominations, notify by letter or postcard every registered medical practitioner entitled to vote thereat of the date of receiving nominations to fill the vacancy. R.S.O. 1960, c. 234, s. 4.

Persons en-
titled to
vote

5.—(1) The persons entitled to vote under this Act at any election are all persons who are duly registered practitioners resident in Ontario. R.S.O. 1960, c. 234, s. 5 (1).

(2) A person who is registered only in the "Educational Register" or the "Special Register" is not entitled to be nominated or elected as a member of the Council or to vote in any election of members of the Council. R.S.O. 1960, c. 234, s. 5 (2); 1966, c. 85, s. 1.

Persons not
entitled to
vote, etc.

6.—(1) Any member of the College may have his name transferred from one class of voters to any other class on his presenting to the registrar a certificate authorized by the executive committee and duly signed by its chairman testifying that the member so applying to have his name transferred has shown a sufficient knowledge of the system of medicine with which he desires to connect himself to entitle him to be admitted to the class to which he desires to be transferred and on being so admitted he is entitled to vote in that class only.

Transfer to
different
class on
voters' list

(2) There is payable to the registrar for such transfer a fee of \$2.

Fee on
transfer

(3) No member, without the sanction of the Council, is entitled to return to the class from which he has been so transferred, and no member at any time is entitled to vote in more than one class of the voters who, in accordance with the provisions of this Act, vote in the election of the members of the Council. R.S.O. 1960, c. 234, s. 6.

Return of
voter to
former class

Not to vote
in more
than one
class

7. In case of any doubt or dispute as to the legality of the election of any member of the Council, it is lawful for the Council to hold an inquiry and decide who is the legally elected member of the Council, and the person whom they decide to have been elected is the member legally elected, and if the election is found to have been illegal the Council has power to order a new election. R.S.O. 1960, c. 234, s. 7.

Disputed
elections,
how dealt
with

8.—(1) In case the validity of the election of any member of the Council is contested, the same shall be tried by the judge or junior or acting judge of the county or district court of the county or district in which the person whose election is complained of resides, and the proceedings thereon shall *mutatis mutandis* be the same as nearly as may be as in the case of municipal elections under the provisions of *The Municipal Act* relating to controverted elections, but no security by the complainant is necessary.

Contro-
verted
elections

R.S.O. 1970,
c. 284

(2) Any person qualified to vote at the election complained of may be the relator in proceedings under this section.

Who may
be relator

(3) The decision of the judge is final. R.S.O. 1960, c. 234, s. 8.

Decision
final

9.—(1) The Council may make rules and regulations as to the times and places of meetings of the Council, and the mode of summoning the same, and in the absence of any rule or regulation

Meetings of
the Council

as to the summoning of meetings the president or vice-president or, in the event of his absence or death, the registrar may summon a meeting to be held at such time and place as to him seems fit, by letter mailed to each member.

Absence of
president

(2) In the event of the absence of the president from any meeting, the vice-president or, in his absence, some other member to be chosen from among the members present shall act as chairman.

Majority

(3) All questions shall be decided by the majority of the members present, and eight members form a quorum of the Council.

Casting vote

(4) At all meetings, the chairman, in the case of an equality of votes, has a casting vote in addition to the vote he is entitled to as a member. R.S.O. 1960, c. 234, s. 9.

Payment to
members of
the Council

10. There shall be paid to the members of the Council such fees for attendance, and such reasonable travelling expenses, as may be fixed by by-law of the Council. R.S.O. 1960, c. 234, s. 10.

Appoint-
ment of
officers

11.—(1) The Council shall annually elect a president and vice-president from among its members and shall also appoint a registrar-treasurer, assistant registrar and such other officers as may from time to time be necessary for giving effect to this Act, who shall hold office during the pleasure of the Council, and the Council may fix the salaries or fees to be paid to such officers, and to the board of examiners hereinafter mentioned.

Absence of
registrar-
treasurer

(2) During the absence of the registrar-treasurer by reason of illness or otherwise, the powers and duties conferred and imposed upon him by this Act shall be exercised and performed by the assistant registrar. R.S.O. 1960, c. 234, s. 11.

Executive
committee

12. The Council shall appoint annually from among its members an executive committee, to take cognizance of, and action upon, all such matters as may be delegated to it by the Council or as may require immediate interference or attention between the adjournment of the Council and its next meeting, and all such acts are valid only until the next ensuing meeting of the Council; but the committee has no power to alter, repeal or suspend any by-law of the Council. R.S.O. 1960, c. 234, s. 12.

Territorial
division
medical
associations

13.—(1) In each of the territorial divisions described in Schedule A there may be established a territorial division medical association, which may be called the division association of such division.

Member-
ship

(2) Every member of the College resident within the territorial division, is a member of the division association, and the representative elected to the Council for the territorial division is *ex officio* chairman of the division association. R.S.O. 1960, c. 234, s. 13.

14.—(1) The Council has power and authority to make regulations respecting educational qualifications for all candidates applying for student registration but any change in the curriculum of studies fixed by the Council shall not come into effect until one year after such change is made.

Educational
qualifica-
tions of
students

(2) Until a homoeopathic medical college for teaching purposes is established in Ontario, candidates wishing to be registered as homoeopathists shall possess the educational qualification fixed pursuant to subsection 1, and shall present evidence of having spent the full period of study required by the curriculum of the Council in a duly approved homoeopathic medical college under the supervision of a duly registered homoeopathic practitioner.

Homoeo-
pathists

(3) Such candidates must also have complied with the full curriculum of studies prescribed from time to time by the Council for all medical students, but the full time of attendance upon lectures and hospitals required by the curriculum of the Council may be spent in such homoeopathic medical colleges in the United States of America or in Europe as may be recognized by a majority of the homoeopathic members of the Council, provided only that the time so spent shall not be less in length than that required of other students; but in all homoeopathic colleges, where the winter course of lectures is of only four months duration, certified tickets of attendance on one such course shall be held to be equivalent to two-thirds of one six-month course as required by the Council, and when such teaching body has been established in Ontario it shall be optional for such candidates to pursue in part or in full the required curriculum in Ontario. R.S.O. 1960, c. 234, s. 14.

Compliance
with cur-
riculum

15. The Council may make by-laws as to the terms upon which it will receive the certificates of colleges and other institutions not in Ontario. R.S.O. 1960, c. 234, s. 15.

Council may
recognize
certificates
of foreign
institutes

16. Graduates in science and graduates in arts including a science, of any university in Her Majesty's dominions shall be deemed to possess the educational qualifications fixed pursuant to subsection 1 of section 14. R.S.O. 1960, c. 234, s. 16.

Graduates
of Univer-
sities in
Her
Majesty's
dominions

17. The Council may prescribe a curriculum of studies to be pursued by the students, and such curriculum of studies shall be observed and taught by all bodies referred to in section 3. R.S.O. 1960, c. 234, s. 17.

Curriculum
of studies

18.—(1) No person shall conduct a course or courses in the science or art of medicine or shall grant degrees in medicine without the approval of the Lieutenant Governor in Council upon the recommendation of the Minister of Health.

Approval
for medical
courses

Revocation
of approval

(2) Upon the recommendation of the Minister of Health, the Lieutenant Governor in Council may at any time revoke any approval given under this section. R.S.O. 1960, c. 234, s. 18.

Registration

19.—(1) The Council shall cause to be kept by the registrar a book or register, in which shall be entered the name of every person registered according to the provisions of this Act, and the names of all persons who have complied with the enactments hereinafter contained, and with the rules and regulations made or to be made by the Council respecting the qualifications to be required from practitioners of medicine, surgery and midwifery in Ontario.

Only
registered
persons to
practise

(2) Those persons only whose names are inscribed in the book or register mentioned in subsection 1 shall be deemed to be qualified and licensed to practise medicine, surgery or midwifery in Ontario, except as hereinafter provided.

Inspection
of register

(3) The book or register shall at all times be open and subject to inspection by any duly registered practitioner in Ontario or by any other person. R.S.O. 1960, c. 234, s. 19.

Educational
Register

20.—(1) The Council may by by-law establish and maintain a register to be known as the "Educational Register". R.S.O. 1960, c. 234, s. 20 (1).

Registration

(2) The registrar of the College may register in the Educational Register any person who,

(a) is a graduate of a university or college referred to in paragraph 2 of subsection 1 of section 3, or possesses equivalent qualifications; and

(b) is employed as an intern or is engaged in post-graduate work in a public hospital approved under *The Public Hospitals Act*, a private hospital licensed under *The Private Hospitals Act*, a hospital within the meaning of *The Mental Hospitals Act*, the Toronto Psychiatric Hospital, an isolation hospital established under *The Public Health Act*, a sanatorium for consumptives within the meaning of *The Sanatoria for Consumptives Act*, or a hospital operated and maintained by Her Majesty in right of Canada; and

(c) pays the registration fee prescribed by the by-laws. R.S.O. 1960, c. 234, s. 20 (2); 1965, c. 69, s. 1.

R.S.O. 1970,
cc. 378, 361,
270, 377, 422

Removal
of names

(3) The registrar may remove the name of any person registered under subsection 2 from the Educational Register upon the termination of the employment of such person in the hospital in which such employment entitled him to registration.

Practice

(4) Any person registered on the Educational Register may practice medicine, surgery or midwifery only in the hospital in which the person so registered is employed. R.S.O. 1960, c. 234, s. 20 (3, 4).

21.—(1) The registrar shall keep the register correct and in accordance with this Act and the orders and regulations of the Council, and shall erase the names of all registered persons who have died, and make the necessary alterations in the addresses and qualifications of the persons registered under this Act.

Registrar
to keep
register
correct

(2) To enable the registrar duly to fulfil the duties imposed upon him, he may, by letter sent by registered mail addressed to any registered person according to his address on the register, inquire whether such person has ceased to practise or has changed his residence, and if no answer to such letter is received within the period of six months from the mailing thereof the registrar may erase the name of such person from the register; but such name shall be restored to the register on compliance with the other provisions of this Act. R.S.O. 1960, c. 234, s. 21.

Written
inquiry by
registrar

22. The Council may admit to registration medical practitioners duly registered in The Medical Register of the United Kingdom, or in any register of persons entitled to practise in any part of the Commonwealth of Nations, upon such terms and conditions as the Council may from time to time consider expedient, having regard not only to the qualification of applicants for registration, but also to such rules, regulations and conditions as may be from time to time in force regarding the reciprocal admission to The Medical Register of the United Kingdom or other register as aforesaid of medical practitioners registered according to the provisions of this Act. R.S.O. 1960, c. 234, s. 22.

Admitting
medical
practitioners
registered
elsewhere

23.—(1) The Council may by by-law establish and maintain a register to be known as the "Special Register" and may from time to time make regulations respecting the persons or classes of persons who may be registered therein, the qualifications to be required of such persons, the fees payable by those so registered, and the conditions, limitations and restrictions applicable to such persons. R.S.O. 1960, c. 234, s. 23 (1); 1966, c. 85, s. 2 (1).

Special
Register

(2) The persons registered in the Special Register are entitled to practise medicine, surgery and midwifery and shall be deemed to be registered medical practitioners only for the period, in the manner, to the extent, and subject to the conditions, limitations and restrictions set out in the regulations applicable to such persons. R.S.O. 1960, c. 234, s. 23 (2); 1966, c. 85, s. 2 (2).

Effect of
registration

(3) Upon any person so registered ceasing to comply, either as a result of circumstances or default, with the terms of the regulations applicable, the registrar shall remove the name of such person from the Special Register. R.S.O. 1960, c. 234, s. 23 (3); 1966, c. 85, s. 2 (3).

Removal of
name from
Special
Register

Qualifica-
tions

24. Every person desirous of being registered under this Act shall, before being entitled to registration, be possessed of such qualifications as the orders, regulations or by-laws of the Council may provide, and shall have complied therewith. R.S.O. 1960, c. 234, s. 24.

Examina-
tions held
under

R.S.C. 1952,
c. 27

25.—(1) The Council may by by-law provide that persons applying for registration shall pass the examinations conducted by the Medical Council of Canada pursuant to the *Canada Medical Act* and produce a certificate of qualification from such last-mentioned Council.

Provincial
examina-
tions sus-
pended

(2) During the time a by-law passed under subsection 1 remains in force and the Medical Council of Canada conducts annual examinations in Ontario, the Council shall not be required to appoint examiners or conduct examinations as provided in sections 27, 28 and 29. R.S.O. 1960, c. 234, s. 25.

Registration
of persons
from other
provinces

26. When and as soon as it appears that there has been established in any other province of Canada a central examining board similar to that constituted by this Act, or an institution duly recognized by the legislature of such other province as the sole examining body for the purpose of granting certificates of qualification, and wherein the curriculum is equal to that established in Ontario the holder of any such certificate is entitled to registration by the Council upon the production of his certificate if the same privilege is accorded by such examining board or institution to those holding certificates in Ontario. R.S.O. 1960, c. 234, s. 26.

Board of
examiners

27.—(1) At the annual meeting of the Council in each year, there shall be elected a board of examiners whose duty it is to examine, at least once in each year, all candidates for registration in accordance with the by-laws, rules and regulations of the Council.

Examiners,
how
appointed

(2) The board of examiners shall be composed of one member from each of the medical teaching bodies now existing or hereafter authorized and established as referred to in section 3 and not less than a like number of members to be chosen from among those members of the College who are not connected with any of such teaching bodies. R.S.O. 1960, c. 234, s. 27.

Where ex-
aminations
to be held

28. The examinations shall be held at Toronto at such times and in such manner as the Council by by-law directs and may also be held at Kingston and London if not fewer than ten candidates apply for examination at such cities. R.S.O. 1960, c. 234, s. 28, *amended*.

Examina-
tions of
homoeo-
paths

29. A candidate who, at the time of his examination, signifies his wish to be registered as a homoeopathic practitioner, shall not be required to pass an examination in either materia medica, or

therapeutics, or in the theory or practice of physic, or in surgery or midwifery, except the operative practical parts thereof, before any examiners other than those approved of by the representatives in the Council of the homoeopathic system. R.S.O. 1960, c. 234, s. 29.

30.—(1) The Council shall from time to time as occasion may require, make such orders, regulations or by-laws as may be necessary, Power of Council to make rules, etc.

- (a) respecting the registers to be kept under this Act, and the fees to be paid for registration;
- (b) for the guidance of the board of examiners.

(2) The Council may prescribe the subjects and modes of the examinations, the time and place of holding them, and generally may make all such rules and regulations in respect of such examinations, not contrary to the provisions of this Act, as they consider expedient and necessary. R.S.O. 1960, c. 234, s. 30, *amended*. Examinations

31. Every person registered under this Act who obtains any higher degree or any qualification other than the qualification in respect of which he has been registered, is, on the payment of such fees as the Council may prescribe, entitled to have such higher degree or additional qualification inserted in the register in substitution for, or in addition to, the qualification previously registered. R.S.O. 1960, c. 234, s. 31. Additional qualification or degree

32.—(1) No qualification shall be entered on the register either on the first registration or by way of addition to a registered name unless the registrar is satisfied by proper evidence that the person claiming is entitled to it, and any appeal from the decision of the registrar may be decided by the Council, and any entry proved to the satisfaction of the Council to have been incorrectly made shall be erased from the register by resolution passed by the Council. Registrar to be satisfied as to qualification

(2) In the event of the registrar being dissatisfied with the evidence adduced by the person claiming to be registered, he has the power, subject to an appeal to the Council, of refusing registration until the person claiming to be registered has furnished such evidence duly attested by oath before the judge of a county or district court. R.S.O. 1960, c. 234, s. 32. Evidence on oath

33.—(1) The Council may by by-law provide for,

- (a) the establishment of a complaints committee, which shall have authority to consider complaints regarding the conduct or actions of a member and to refer any such complaint in whole or in part to the discipline committee;

Complaints committee

- (b) the composition and quorum of the complaints committee; and
- (c) the procedure to be followed by the complaints committee in the conduct of its business.

Saving

(2) Notwithstanding subsection 1 and any by-law passed thereunder, the Council and the executive committee shall continue to have authority, as in this Act provided, to direct that an inquiry be made by the discipline committee into any alleged professional misconduct on the part of a member. 1965, c. 69, s. 2.

Interpretation

34.—(1) In this section and in sections 35 to 46, “member” means a medical practitioner registered on any register now or hereafter maintained by the College pursuant to this Act.

Members liable to disciplinary action

(2) A member of the College who is alleged to be guilty of professional misconduct is subject to the disciplinary action and liable to the penalties hereinafter provided. 1962-63, c. 80, s. 1, *part*.

What constitutes professional misconduct

(3) A member is guilty of professional misconduct,

- (a) if he has been convicted in Canada of an indictable offence, or elsewhere of an offence that, if committed in Canada, would be an indictable offence, upon proof of such conviction;
- (b) if his rights or privileges under the *Narcotic Control Act* (Canada) or the *Food and Drug Act* (Canada) or the regulations under either of them have been restricted or withdrawn, upon proof thereof; or
- (c) if he has been guilty, in the opinion of the discipline committee or Council, of misconduct in a professional respect or of conduct unbecoming a medical practitioner or of incompetence. 1962-63, c. 80, s. 1, *part*; 1965, c. 69, s. 3.

1960-61, c. 35 (Can.)
1962-63, c. 38 (Can.)

Where inquiry to be made

(4) Except in cases under subsection 5, the Council or the executive committee thereof may direct that an inquiry be made by the discipline committee into any alleged professional misconduct, and, upon the written application of any four members of the College setting forth particulars of any alleged professional misconduct, an inquiry shall be directed, if in the opinion of the Council or the executive committee there appears to be sufficient evidence of professional misconduct to warrant the making of an inquiry.

Erasure of name upon conviction for criminal offence in connection with practice

(5) In the case of a conviction after registration under this Act for a criminal offence committed in connection with the practice of his profession, the member shall be deemed to be guilty of professional misconduct and his name shall be erased from the register by the registrar forthwith upon proof of such conviction. 1962-63, c. 80, s. 1, *part*.

35.—(1) The Council shall appoint five members of the Council as a committee to be known as the discipline committee for the purpose of exercising the disciplinary functions designated by this Act. Discipline committee

(2) Three members of the discipline committee constitute a quorum, whether or not a vacancy exists on the committee. Quorum

(3) In the case of a vacancy in the membership of the discipline committee or if a member is unable or unwilling to act as the result of illness or for any other reason, the president or, in his absence, the vice-president may appoint a member in his place. Vacancies, etc.

(4) The Council may make by-laws governing the tenure of office of members of the discipline committee, the appointment of a chairman, the summoning and conduct of its meetings, and the practice and procedure and the transaction of business thereat. By-laws

(5) The College shall provide the discipline committee with a suitable place for holding its meetings, the services of counsel and a reporter, and such other assistance as is necessary or proper to enable it to properly perform its duties. 1962-63, c. 80, s. 1, *part*. Meeting place; assistance

36.—(1) When a registered medical practitioner has been declared, certified, adjudged or found to be mentally incompetent or mentally ill or incapable of managing his affairs as the result of mental illness, habitual drunkenness or the use of drugs pursuant to the relevant statutes in that behalf, the committee of the person or property of such practitioner shall forthwith notify the registrar in writing, stating the particulars of the declaration, certification, judgment or order so made, and the name and address of the committee, and upon receipt of such notification the registrar shall forthwith suspend the registration of such practitioner and record such suspension in the register. Suspension of registration when mentally ill, etc.

(2) When, pursuant to certification by a court or voluntary application or otherwise, a registered medical practitioner is admitted for care and treatment of mental illness to a hospital or institution within the meaning of *The Mental Hospitals Act* and remains in such hospital or institution for care and treatment after the expiration of sixty days from the day of his admission, the registration of such practitioner shall be deemed to be suspended as of the sixty-first day from the day of his admission and the administrator, superintendent or supervisor of such hospital or institution shall thereupon forthwith report such facts to the registrar, who shall forthwith record such suspension in the register unless it has been previously recorded therein under subsection 1. Idem
R.S.O. 1960,
c. 270

(3) Upon the release or discharge of the practitioner from the hospital or institution, the administrator, superintendent or supervisor thereof shall forthwith notify the registrar of such release or discharge. Notice of release or discharge

Termination of suspension, cases under subs. 1

(4) When a practitioner whose registration has been suspended under subsection 1 is declared, certified, adjudged or found to be mentally competent or capable of managing his affairs by final declaration, certification, judgment or order, the registrar shall, upon receipt of a certified copy thereof, forthwith terminate the suspension of such practitioner by an entry in the register.

Idem, cases under subs. 2

(5) Any practitioner whose registration has been suspended under subsection 2 may apply to the Council for termination of the suspension of his registration, and the Council shall inquire into and determine the matter, but shall not terminate the suspension unless it is satisfied beyond reasonable doubt that the mental condition of the practitioner is such that, having due regard to the public interest, the suspension of his registration may properly be terminated.

Application of ss. 37-43

(6) For the purposes of such inquiry and the termination of suspension of registration of any such practitioner, sections 37 to 43 apply, and the right of appeal mentioned in section 43 applies to a person suspended under this section in the same manner as if his name had been erased from the register.

Hearing *in camera* upon request

(7) If the applicant so requests, his application shall be heard *in camera*.

Entry on Special Register

(8) Instead of directing the termination of suspension of registration of the practitioner, the Council may direct that his name be entered in the Special Register for such period and upon such terms and conditions as the Council prescribes.

Examination of records

(9) Upon the practitioner's application for termination of the suspension of his registration, the Council and the committee appointed under section 35 are entitled to examine and to be furnished by the hospital or institution with a copy of the practitioner's record of admission, diagnosis, treatment and release, and all other papers, reports and records in their possession relating to the care, treatment and conduct of the practitioner.

Disposal of record

(10) The record of the proceedings upon the practitioner's application for termination of suspension of registration, including all evidence, documents and exhibits in connection therewith, shall be placed in a separate envelope or container and sealed by the registrar and, except for the purposes of an appeal from the decision of the Council, shall be deemed to be privileged communications. R.S.O. 1960, c. 234, s. 35, *amended*.

Duties of discipline committee

37.—(1) The discipline committee shall, when so directed by the Council, executive committee or complaints committee,

(a) inquire into the conduct of any member;

(b) hold hearings into charges of professional misconduct against any member; and

- (c) inquire into and report to the Council upon an application by a former member to have his name restored to the register,

and shall perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into charges of professional misconduct, the discipline committee shall, Idem, charges of professional misconduct

- (a) consider the charge, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the charge has been proved;
- (c) determine whether in respect of the charge so proved the member is guilty of professional misconduct; and
- (d) determine or recommend the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct.

(3) The inquiries and hearings of the discipline committee shall be conducted in accordance with this Act and the practice and procedure prescribed by the by-laws. 1966, c. 85, s. 3. Procedure

38.—(1) The registrar shall cause a notice to be served upon the person whose conduct is the subject of inquiry at least two weeks before the hearing, and the notice shall embody a copy of the charges made against him or a statement of the subject-matter of the inquiry, and shall also specify the time and place of the hearing. Notice of hearing

(2) The notice required by subsection 1 shall be deemed to have been duly served if sent by registered mail to the address of the person required to be served, as last known to the registrar, and proof of such service may be made by affidavit. Service of notice

(3) Upon a hearing, the member whose conduct is the subject of the inquiry is entitled to be present and to be represented by counsel. Counsel

(4) Where a member fails to attend a hearing after receiving due notice thereof, the discipline committee may, upon proof of service of such notice, proceed with the inquiry in his absence without further notice to such member. 1962-63, c. 80, s. 2, *part*. When hearing may proceed

39.—(1) Any person who would be a competent and compellable witness at the trial of a civil action in Ontario is a competent and compellable witness at a hearing of the discipline committee, and the evidence adduced thereat shall be governed by *The Evidence Act* and the rules of evidence in civil proceedings in Ontario, except that, Witnesses and evidence
R.S.O. 1970, c. 151

- (a) where any evidence is tendered that would not be admissible as such at the trial of a civil action in Ontario, the committee may receive such evidence if it is satisfied that its duty of making due inquiry into the case before it makes its reception desirable; and
- (b) any letter, statement, prescription, certificate, record or other document purporting to be signed by a registered medical practitioner and any account for professional services that is on an account form bearing his name is *prima facie* proof that the document was signed or, in the case of an account, was authorized by him, and is *prima facie* proof of the statements contained in the document or account. 1962-63, c. 80, s. 2, *part*; 1966, c. 85, s. 4, *amended*.

Subpoenas

(2) The College and the member whose conduct is the subject of an inquiry may, without leave or order, obtain from the Supreme Court a subpoena commanding the attendance and examination of any witness and also the production of any document, the production of which could be compelled at the trial of an action, to and before the discipline committee at the time and place mentioned in the subpoena, and disobedience to the subpoena shall be deemed a contempt of court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in the Supreme Court.

Testimony under oath, etc.

(3) The testimony of witnesses at hearings of the discipline committee shall be taken under oath to be administered by the chairman or other member of the committee, and there shall be full right to cross-examine all witnesses called and to call evidence in defence and reply. 1962-63, c. 80, s. 2, *part*.

Powers of discipline committee where professional misconduct has been found

40.—(1) Where the discipline committee finds that a member is guilty of professional misconduct, it may by order,

- (a) suspend the member for a period not exceeding twelve months from the register on which he is registered;
- (b) direct that the member be reprimanded and, if considered warranted, that the fact of such reprimand be recorded on the register;
- (c) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as it may designate;
- (d) in cases reported to the Council for determination of the penalty, if the professional misconduct consists of incompetence,
 - (i) direct that the member's registration be suspended, or

- (ii) direct that the member's registration be transferred to the Special Register with such restrictions and conditions as the committee may designate, and that he discontinue the use of any specialty designation,

but any such direction shall remain in effect only until the final determination of the case by the Council or upon appeal; and

- (e) direct that the member pay to the College the costs of and incidental to the inquiry, which may include the cost of reporting and transcribing the evidence. 1966, c. 85, s. 5 (1), *amended*.

(2) The costs shall be taxed on the Supreme Court scale by the taxing officer of the Supreme Court at Toronto, upon whose certificate execution may issue out of the Supreme Court for the collection of such costs by the College, as upon a judgment in an action in such court. 1962-63, c. 80, s. 2, *part*. Costs to be taxed

(3) If the discipline committee is of the opinion that the name of the member should be erased or that the term of suspension should exceed twelve months, it shall make a report to the Council of the facts and its findings and recommendations as to penalty, and may transmit therewith a transcript of the evidence taken at the inquiry. 1966, c. 85, s. 5 (2). Report to Council

41.—(1) The powers and duties of the Council in disciplinary matters are, Powers and duties of Council in disciplinary matters

- (a) to receive and record reports of the discipline committee in respect of the cases that have been completely dealt with by the committee, and the decision upon any appeal taken therefrom; and

- (b) to receive, record and consider reports, findings and recommendations of the discipline committee in cases in which the committee has found a member guilty of professional misconduct and is of the opinion that the penalty imposed should be the erasure of the name of the member, or that he should be suspended as a member for a period in excess of twelve months, and to impose such penalties as the Council considers proper. 1966, c. 85, s. 6, *part*; 1968, c. 69, s. 1.

(2) The Council may impose upon a member any penalty that the discipline committee is authorized to impose, or may direct that the name of the member be erased or that he be suspended as a member for such period as the Council considers proper. 1966, c. 85, s. 6, *part*. Idem

42.—(1) A former member whose name has been erased or who has been suspended indefinitely may apply in writing to the registrar to have his name restored. Restoration of name on register

Hearing by
discipline
committee

(2) The registrar shall refer the application to the discipline committee, which shall hear the application and report its findings and recommendations to the Council.

Procedure
on hearing

(3) Upon such a hearing, the procedure before the discipline committee shall follow in so far as applicable the procedure in an inquiry into a case of alleged professional misconduct.

Order of
Council

(4) The Council shall consider the report and recommendations of the discipline committee and make such order as it considers proper.

Costs

(5) The Council may direct that the former member pay the costs of and incidental to the application and hearing.

Appeal

(6) A former member has the same right of appeal from the decision of the Council under this section as in the case of a decision in an inquiry into alleged professional misconduct. 1966, c. 85, s. 6, *part*.

Appeals

43.—(1) Any member aggrieved may appeal,

(a) from the order of the discipline committee in a case that the committee has fully disposed of, to a judge of the Supreme Court, at any time within thirty days from the date of the order complained of with a further right of appeal to the Court of Appeal from the order of the judge; and

(b) from the orders of the discipline committee and the Council in a case that the discipline committee has referred to the Council for determination of the penalty, to a judge of the Supreme Court at any time within thirty days from the date of the order of the Council with a further right of appeal to the Court of Appeal from the order of the judge. 1966, c. 85, s. 7, *part*; 1968, c. 69, s. 2 (1).

Orders
and costs

(2) Upon the hearing of an appeal the judge or Court of Appeal, as the case may be, may make such order in the matter and as to costs as the judge or Court of Appeal considers proper. 1968, c. 69, s. 2 (3).

Idem

(3) The College may appeal to the Court of Appeal from an order of a judge of the Supreme Court at any time within thirty days from the date of the order.

Procedure
and record

(4) The appeal may be by motion, notice of which shall be served upon the registrar, and shall be founded upon a copy of the proceedings before the discipline committee, the evidence taken, the committee's report and all decisions and orders in the matter, certified by the registrar, and the registrar shall, upon the request of any member desiring to appeal and upon payment of the cost thereof, furnish such member with a certified copy of all proceedings, evidence, reports, orders and papers upon which the com-

mittee and the Council have acted in making the order complained of.

(5) If the appellant fails to pay to the registrar the cost of the certified copy and the cost of such additional copies of the evidence as may reasonably be required for purposes of the appeal within fifteen days after written demand, the appeal shall be deemed to be abandoned. Failure to pay costs

(6) In all other respects, appeals to the Court of Appeal shall be in accordance with the practice in appeals from the decision or order of a judge of the Supreme Court. 1966, c. 85, s. 7, *part*. Practice on appeals to Court of Appeal

- 44.**—(1) The registrar in disciplinary matters shall, Function of registrar in disciplinary matters
- (a) erase from the register the name of a member whose name the Council has directed to be erased, and shall record the date of the erasure;
 - (b) enter on the register,
 - (i) the suspension of a member whose registration the committee or the Council has directed to be suspended,
 - (ii) the fact that a member was reprimanded, in cases in which the committee or the Council has directed that such reprimand be recorded on the register,
 stating the date of the order of suspension or reprimand and the period of suspension;
 - (c) enter on the register the date and terms of any order made upon appeal and comply with its terms, and enter particulars of any abandoned appeal; and
 - (d) enter on the register the name of a former member whose name has been restored by order of the Council or upon appeal and the date of the restoration. 1962-63, c. 80, s. 2, *part*; 1966, c. 85, s. 8 (1).

(2) Except in the case of an order of the discipline committee under clause *d* of subsection 1 of section 40, the registrar shall not make an erasure or entry under subsection 1 until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. 1966, c. 85, s. 8 (2). Idem

45. No action shall be brought against the College or any officer thereof or any member of the Council for or in respect of anything done in good faith under this Act. 1962-63, c. 80, s. 2, *part*. Actions against College, etc., barred

46. While the name of any member is erased, or during his suspension from membership, it is unlawful for him to engage in the practice of medicine, surgery or midwifery and he shall during such period be deemed to be unregistered, and, if he practises medicine, surgery or midwifery during such period, he is guilty of Practise during suspension prohibited

an offence and on summary conviction is liable to the penalties prescribed by this Act relating to practise by unregistered persons. 1962-63, c. 80, s. 2, *part*.

Rights of
registered
persons

47. Every person registered under this Act is entitled according to his qualification or qualifications to practise medicine, surgery or midwifery, or any of them, as the case may be, in Ontario, and to demand and recover in any court reasonable charges for professional aid, advice and visits and the cost of any medicine or other medical or surgical appliances rendered or supplied by him to his patients. R.S.O. 1960, c. 234, s. 42.

Limitation
of actions
for negli-
gence

48. No duly registered member of the College is liable to any action for negligence or malpractice, by reason of professional services requested or rendered, unless such action is commenced within one year from the date when in the matter complained of such professional services terminated. R.S.O. 1960, c. 234, s. 43.

Register to
be printed
and pub-
lished

49.—(1) The registrar shall from time to time under the direction of the Council cause to be printed and published a correct register of the names in alphabetical order according to the surnames, with the respective residences in the form set forth in Schedule B, or to the like effect, with the titles, diplomas and qualifications of medical character and the dates thereof, of all persons appearing on the register as existing on the day of publication and such register shall be called The Published Ontario Medical Register.

Register to
be *prima facie*
proof
in all courts

(2) A copy of such register for the time being purporting to be printed and published as aforesaid, is *prima facie* proof in all courts, and before all justices of the peace, and others, that the persons therein specified are registered according to the provisions of this Act, and, subject to subsection 3, the absence of the name of any person from such copy is *prima facie* proof that such person is not registered according to the provisions of this Act.

Certified
copy of
entry of
name

(3) In the case of any person whose name does not appear in such copy, a certified copy under the hand of the registrar of the entry of the name of such person on the register is evidence that such person is registered under this Act. R.S.O. 1960, c. 234, s. 44, *amended*.

Annual fee

50.—(1) Every member of the College shall pay to the registrar or to any person deputed by the registrar to receive it, such annual fee as may from time to time be determined by by-laws of the Council passed in accordance with this section, to be applied towards the general expenses of the College, which fee shall be due on and from the 1st day of January in the year in which the fee is imposed, and such fee shall be deemed to be a debt due by each member to the College, and is recoverable with costs of suit in the name of the College of Physicians and Surgeons of

Ontario, in the small claims court of the division in which the member resides.

(2) The Council may by by-law prescribe means of collecting and enforcing the payment of such annual fee. R.S.O. 1960, c. 234, s. 45, *amended*. Collection of fee

51.—(1) Every registered medical practitioner shall obtain from the registrar annually, in the month of January, a certificate under the seal of the College that he is a duly registered medical practitioner. Annual certificate

(2) Upon payment of all fees and dues payable by such medical practitioner to the College, the registrar shall write his name on the margin of the certificate and the date thereof and the certificate shall be deemed to be issued only from such date. Issue of certificate

(3) No certificate shall be issued to any practitioner who is indebted to the College for any sums payable to the College, nor until the annual fee for such certificate prescribed by the by-laws of the College under this Act is paid. Certificate not to issue until fees paid

(4) If a practitioner omits to take out such annual certificate he is not entitled thereto until he pays to the College the certificate fee as aforesaid, together with any other fees or dues that he owes to the College. Penalty for not taking out annual certificate

(5) After twelve months default in taking out such certificate, and if two months notice of such default is given by registered letter addressed to the registered address of the defaulter, the registrar shall, if payment has not been made by the defaulter, erase his name from the register, and the provisions of this Act as to unregistered medical practitioners forthwith apply to such medical practitioner. Erasure of name where default made for 12 months

(6) Such medical practitioner may, unless otherwise disqualified under this Act, at any time after his name is so erased by the registrar, obtain reregistration by applying to the registrar and paying \$5 in addition to all arrears of fees and dues under this Act, and taking out his certificate as herein provided, and he is thereupon reinstated to the full privileges enjoyed by other registered medical practitioners under this Act. R.S.O. 1960, c. 234, s. 46. Reregistration upon payment of arrears

52.—(1) The provisions of sections 50 and 51 only continue in force so long as a by-law of the Council adopting the same remains in force, and the Council may repeal such by-law and may by by-law from time to time re-enact such provisions in whole or in part, or with such modifications as the Council considers proper. Power of Council in respect of ss. 50, 51

(2) No member of the Council is entitled to vote on any by-law under this section except the elected members of the Council, six of whom at least must be present at the passing of the by-law. R.S.O. 1960, c. 234, s. 47. Who may vote on by-laws under this section

Those entitled to register and neglecting to do so

53. Any person entitled to be registered under this Act but who neglects or omits to be so registered is not entitled to any of the rights or privileges conferred by registration, so long as such neglect or omission continues, and he is liable to all the penalties imposed by this Act, or by any other Act in force against unqualified or unregistered practitioners. R.S.O. 1960, c. 234, s. 48.

Penalty on registrar for falsification

54. If the registrar makes or causes to be made any wilful falsification in any matter relating to the register, he is guilty of an offence and on summary conviction is liable to a fine of \$50, and is disqualified from again holding the office of registrar. R.S.O. 1960, c. 234, s. 49.

Penalty for obtaining registration by fraud

55.—(1) If any person procures or causes to be procured his registration under this Act, by means of any false or fraudulent representation or declaration, either verbal or in writing, the registrar, upon the receipt of sufficient evidence of the falsity or fraudulent character of the said representation or declaration, shall represent the matter to the Council, and upon the written order of the president, attested by the seal of the College, shall erase the name of such person from the register, and make known the fact and cause of the erasure by notice to be published in *The Ontario Gazette*.

Consequences of erasure

(2) After such notice has appeared, the person whose name has been erased as aforesaid ceases to be a member of the College and ceases to enjoy any of the privileges conferred by registration under this Act, and is not entitled to enjoy the same at any future time without the express sanction of the Council.

Penalty

(3) If any person wilfully procures or attempts to procure himself to be registered under this Act, by making any false or fraudulent representation or declaration, either verbally or in writing, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$100, and every person knowingly aiding and assisting him therein is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$50. R.S.O. 1960, c. 234, s. 50.

Penalty for practising medicine without registration

56. No person who is not registered shall practise medicine, surgery or midwifery for hire, gain or hope of reward, and, if any person not registered under this Act, for hire, gain or hope of reward, practises or professes to practise medicine, surgery or midwifery, or advertises to give advice in medicine, surgery or midwifery, he is guilty of an offence and on summary conviction is liable for the first offence to a fine of not less than \$50 and not more than \$500, for the second offence to a fine of not less than \$200 and not more than \$1,000, and for any subsequent offence to a fine of \$1,000 and not more than six months imprisonment. 1962-63, c. 80, s. 3, *part*.

57.—(1) In this section, “medical student” means a person who is enrolled in the medical course of a university in Ontario and performs medical, surgical and obstetrical services as required by the curriculum of studies prescribed by the university. Interpretation

(2) Notwithstanding section 56, a medical student is entitled to perform, under the supervision of a medical practitioner registered under this Act, the medical, surgical and obstetrical services required by the curriculum of studies. Medical student entitled to perform services

(3) Section 48 applies to a medical student as if he were registered under this Act. 1968, c. 69, s. 3. Section 48 to apply to medical students

58. Any person who wilfully or falsely pretends to be a physician, doctor of medicine, surgeon or general practitioner, or assumes any title, addition or description other than he actually possesses and is legally entitled to, is guilty of an offence and on summary conviction is liable for the first offence to a fine of not less than \$50 and not more than \$500, for the second offence to a fine of not less than \$200 and not more than \$1,000, and for any subsequent offence to a fine of \$1,000 and not more than six months imprisonment. 1962-63, c. 80, s. 3, *part*. Penalty for pretending to be physician

59.—(1) Any person not registered under this Act who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he is registered under this Act, or that he is recognized by law as a physician, surgeon, accoucheur or a licentiate in medicine, surgery or midwifery, or who assumes, uses or employs the title “Doctor”, “Surgeon” or “Physician” or any affix or prefix indicative of such titles as an occupational designation relating to the treatment of human ailments or physical defects, or advertises or holds himself out as such, is guilty of an offence and on summary conviction is liable for the first offence to a fine of not less than \$50 and not more than \$500, for the second offence to a fine of not less than \$200 and not more than \$1,000, and for any subsequent offence to a fine of \$1,000 and not more than six months imprisonment. 1962-63, c. 80, s. 4. Penalty for unauthorized use of title

(2) Subsection 1 does not apply to any licentiate of dental surgery or any other person admitted to practise dentistry or dental surgery under *The Dentistry Act*. R.S.O. 1960, c. 234, s. 53 (2). Exception as to dentistry
R.S.O. 1970, c. 108

60. No person is entitled to recover any charge in a court for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine that he may have prescribed or supplied, unless he produces to the court a certificate that he was registered under this Act at the time the services were rendered, but this section does not apply, Not entitled to recover charges unless registered

(a) to the sale of any drug or medicine by any duly authorized chemist or druggist;

- (b) to the personal representative of a deceased person who at the time of giving, making, performing, prescribing or supplying such advice, attendance, operation or medicine was so registered; or
- (c) where such advice, attendance, operation or medicine was given, made, performed, prescribed or supplied outside of Ontario. R.S.O. 1960, c. 234, s. 54.

Public appointments only conferred on registered persons

61. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of Ontario, or in any hospital or other charitable institution not supported wholly by voluntary contributions, unless he is registered under this Act. R.S.O. 1960, c. 234, s. 55.

Certificates by unregistered persons invalid

62. No certificate required by any Act now in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner is valid unless the person signing the certificate is registered under this Act. R.S.O. 1960, c. 234, s. 56.

Burden of proof

63. In any trial under this Act the burden of proof as to registration is upon the person charged. R.S.O. 1960, c. 234, s. 57.

Evidence of registry and signature of registrar

64. In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the registrar is sufficient evidence of all persons who are registered practitioners, in lieu of the production of the original register, and any certificate upon such printed or other copy of the register, purporting to be signed by any person in his capacity of registrar under this Act is *prima facie* proof that such person is the registrar, without any proof of his signature or of his being in fact the registrar. R.S.O. 1960, c. 234, s. 58, *amended*.

Limitation of prosecutions

65. Every prosecution under this Act shall be commenced within one year from the date of the alleged offence. R.S.O. 1960, c. 234, s. 59.

Stay of proceedings

66. If the Council considers it expedient so to do, it may stay proceedings in any prosecution under this Act by an order signed by the president and sealed with the seal of the College. R.S.O. 1960, c. 234, s. 60.

To whom penalties paid

67.—(1) All penalties recovered under this Act shall be paid to the convicting justice and shall be paid by him to the registrar of the College, and shall form part of the funds thereof.

Prosecutor

(2) Any person may be prosecutor or complainant under this Act, and the Council may allot such portion of the penalties recovered as may be expedient towards the payment of such prosecutor. R.S.O. 1960, c. 234, s. 61.

Specialists

68.—(1) The Council may make regulations providing for a system of classification of legally qualified medical practitioners

who because of special training or qualifications are specialists in any branch of medicine, surgery or midwifery and may in such regulations,

- (a) define the nature of the various classes of specialists;
- (b) prescribe the qualifications required of specialists in the various classes;
- (c) provide for the designation of specialists upon application and examination or otherwise and for the suspension or revocation of any such designation;
- (d) regulate and prohibit the use of terms or designations by medical practitioners indicating specialization in any branch of medicine, surgery or midwifery;
- (e) prescribe the fees payable by persons designated as specialists and provide for the collection thereof.

(2) A certificate as to the designation or non-designation of any person as a specialist signed or purporting to be signed by the registrar is admissible in evidence as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the registrar. R.S.O. 1960, c. 234, s. 62. Certificate of registrar

69. The Council, subject to the approval of the Lieutenant Governor in Council, may make regulations prohibiting, regulating and controlling the use of the word "clinic" in connection with the practice of medicine, surgery or midwifery, and in particular may prescribe the minimum number and the classes of practitioners that may operate a clinic and the nature and extent of the services that they shall provide. R.S.O. 1960, c. 234, s. 63. Clinics

70. All moneys forming part of the Council funds shall be paid to the treasurer and may be applied or used in such manner as the Council may determine, Council funds

- (a) for the carrying out of the provisions of this Act;
- (b) for any purpose that may tend to advance scientific knowledge or medical education and maintain the standards of the practice of medicine, surgery and midwifery;
- (c) for assisting in the maintenance of a fund for the benefit of needy medical practitioners in Ontario; and
- (d) generally to promote the objects of the College. R.S.O. 1960, c. 234, s. 64.

71. So long as a by-law passed under subsection 1 of section 25 remains in force, the registrar shall enter on the register, upon application, the name of any person who, Registration of persons registered under

- (a) is registered under the *Canada Medical Act*;
- (b) pays the fees fixed by the College; and
- (c) complies with the regulations of the College. R.S.O. 1960, c. 234, s. 65. R.S.C. 1952, c. 27

SCHEDULE A

TERRITORIAL DIVISIONS

(CONSISTING OF THE FOLLOWING COUNTIES, DISTRICTS AND MUNICIPALITIES AS THEY EXIST TERRITORIALLY AT THE TIME OF THE ELECTION AT WHICH THEY ARE APPLIED)

- | | |
|--------------------------------------|--|
| 1—Essex | Prince Edward |
| Kent | Hastings |
| Lambton | Lennox and Addington |
| Elgin | Frontenac |
| | Leeds |
| 2—Middlesex | 7—Lanark |
| Norfolk | Grenville |
| Oxford | The Regional Municipality of Ottawa-Carleton |
| Perth | Dundas |
| Huron | Stormont |
| 3—Bruce | Glengarry |
| Grey | Russell |
| Dufferin | Prescott |
| Waterloo | Renfrew |
| Brant | |
| Wellington | 8—Haliburton |
| 4—Haldimand | The District Municipality of Muskoka |
| The Regional Municipality of Niagara | Parry Sound |
| Wentworth | Nipissing |
| 5—Simcoe | Timiskaming |
| Halton | Manitoulin |
| Peel | Sudbury |
| The Regional Municipality of York | Algoma |
| Ontario | Cochrane |
| Durham | 9—Thunder Bay |
| Victoria | Rainy River |
| 6—Peterborough | Kenora |
| Northumberland | Patricia |
| | 10—The Municipality of Metropolitan Toronto |

R.S.O. 1960, c. 234, Sched. A; 1965, c. 69, s. 4.

SCHEDULE B
FORM OF REGISTER

Name	Residence	Qualifications and Additions
A.B.	Toronto,	M.A., M.D., University of Toronto
C.D.	Kingston, County of Frontenac	MA., M.D., Queen's University
E.F.	Etobicoke,	M.A., M.D., University of Western Ontario
G.H.	Toronto	M.A., M.D., University of Toronto

R.S.O. 1960, c. 234, Sched. B.

CHAPTER 269

The Mental Health Act

- 1.** In this Act,
- (a) “attending physician” means the physician to whom responsibility for the observation, care and treatment of a patient has been assigned;
 - (b) “Department” means the Department of Health;
 - (c) “Deputy Minister” means the Deputy Minister of Health;
 - (d) “local board of health” has the same meaning as local board in *The Public Health Act*; R.S.O. 1970,
c. 377
 - (e) “medical officer of health” has the same meaning as in *The Public Health Act*;
 - (f) “mental disorder” means any disease or disability of the mind;
 - (g) “Minister” means the Minister of Health;
 - (h) “officer in charge” means the officer who is responsible for the administration and management of a psychiatric facility;
 - (i) “patient” means a person who is under observation, care and treatment in a psychiatric facility;
 - (j) “physician” means a legally qualified medical practitioner;
 - (k) “psychiatric facility” means a facility for the observation, care and treatment of persons suffering from mental disorder, and designated as such by the regulations;
 - (l) “psychiatrist” means a physician who holds a specialist’s certificate in psychiatry issued by The Royal College of Physicians and Surgeons of Canada or equivalent qualification acceptable to the Minister;
 - (m) “regulations” means the regulations made under this Act;
 - (n) “senior physician” means the physician responsible for the clinical services in a psychiatric facility. 1967, c. 51, s. 1.

Interpre-
tation

PART I

STANDARDS

Application
of Act

2. This Act applies to every psychiatric facility. 1967, c. 51, s. 2

Conflict

3. Every psychiatric facility has power to carry on its undertaking as authorized by any Act, but, where the provisions of any Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. 1967, c. 51, s. 3.

Advisory
officers

4.—(1) The Minister may designate officers of the Department or appoint persons who shall advise and assist medical officers of health, local boards of health, hospitals and other bodies and persons in all matters pertaining to mental health and who shall have such other duties as are assigned to them by this Act or the regulations.

Powers

(2) Any such officer or person may at any time, and shall be permitted so to do by the authorities thereat, visit and inspect any psychiatric facility, and in so doing may interview patients, examine books, records and other documents relating to patients, examine the condition of the psychiatric facility and its equipment, and inquire into the adequacy of its staff, the range of services provided and any other matter he considers relevant to the maintenance of standards of patient care. 1967, c. 51, s. 4.

Provincial
aid

5. The Minister may pay psychiatric facilities provincial aid in such manner, in such amounts and under such conditions as are prescribed by the regulations. 1967, c. 51, s. 5.

PART II

HOSPITALIZATION

Where
admission
may be
refused

6. Notwithstanding this or any other Act, admission to a psychiatric facility may be refused where the immediate needs in the case of the proposed patient are such that hospitalization is not urgent or necessary. 1967, c. 51, s. 6.

Admission
of informal
patients

7. Any person who is believed to be in need of the observation, care and treatment provided in a psychiatric facility may be admitted thereto as an informal patient upon the recommendation of a physician. 1967, c. 51, s. 7.

Admission of
involuntary
patients

8.—(1) Any person who,

- (a) suffers from mental disorder of a nature or degree so as to require hospitalization in the interests of his own safety or the safety of others; and

(b) is not suitable for admission as an informal patient,

may be admitted as an involuntary patient to a psychiatric facility upon application therefor in the prescribed form signed by a physician.

(2) It shall be stated and shown clearly that the physician signing the application personally examined the person who is the subject of the application and made due inquiry into all of the facts necessary for him to form a satisfactory opinion. Contents of application

(3) The physician signing the application shall also in the application state the facts upon which he has formed his opinion of the mental disorder, distinguishing the facts observed by him from the facts communicated to him by others, and shall note the date upon which the examination was made. Idem

(4) Every such application shall be completed no later than seven days after the examination referred to therein, and no person shall be admitted to a psychiatric facility upon an application except within fourteen days of the date on which the application was completed. Time limits

(5) Such an application is sufficient authority, Authority of application

(a) to any person to convey the person who is the subject of the application to a psychiatric facility; and

(b) to the authorities thereof to admit and detain him therein for a period of not more than one month. 1967, c. 51, s. 8.

9.—(1) Where information upon oath is brought before a justice of the peace that a person, within the limits of his jurisdiction, Justice of the peace's order for examination

(a) is believed to be suffering from mental disorder; and

(b) should be examined in the interest of his own safety or the safety of others,

the justice may, if he is satisfied that,

(c) such examination is necessary; and

(d) such examination can be arranged in no other way,

issue his order for examination in the prescribed form.

(2) In every order under this section it shall be stated and shown clearly that the justice issuing the order made due inquiry into all of the facts necessary for him to form a satisfactory opinion. Contents of order

(3) An order under this section may be directed to all or any constables or other peace officers of the locality within which the justice has jurisdiction and shall name or otherwise describe the person with respect to whom the order has been made. Idem

Authority
of order

(4) An order under this section shall direct, and is sufficient authority for, any constable or other peace officer to whom it is addressed to take the person named or described therein to an appropriate place where he may be detained for medical examination. 1967, c. 51, s. 9.

Action by
peace officer

10. Where a constable or other peace officer observes a person,

- (a) apparently suffering from mental disorder; and
- (b) acting in a manner that in a normal person would be disorderly,

the officer may, if he is satisfied that,

- (c) the person should be examined in the interests of his own safety or the safety of others; and
- (d) the circumstances are such that to proceed under section 9 would be dangerous,

take the person to an appropriate place where he may be detained for medical examination. 1967, c. 51, s. 10.

Examination

11. An examination referred to in section 9 or 10 shall be conducted forthwith and, wherever practicable, the place of examination shall be a psychiatric or other health facility. 1967, c. 51, s. 11.

Informal
patients
may become
involuntary
patients

12. An informal patient may, upon completion of the prescribed form, be continued as an involuntary patient, and in any such case section 8 applies *mutatis mutandis*. 1967, c. 51, s. 12.

Certificate
of renewal

13.—(1) The period of detention of an involuntary patient may be extended upon the completion of a certificate of renewal in the prescribed form by the attending physician after personal examination.

Conditions
precedent
to making of
certificate
of renewal

(2) The attending physician shall not complete a certificate of renewal unless the patient,

- (a) suffers from mental disorder of a nature or degree so as to require further hospitalization in the interests of his own safety or the safety of others; and
- (b) is not suitable to be continued as an informal patient.

Authority of
certificates
of renewal

(3) A certificate of renewal is authority to detain the patient as follows:

1. First certificate—not more than two additional months.
2. Second certificate—not more than three additional months.

3. Third certificate—not more than six additional months.
4. Fourth certificate—not more than twelve additional months.
5. Each subsequent certificate—not more than twelve additional months.

(4) An involuntary patient whose authorized period of detention has expired shall be deemed to be an informal patient.

Change of status, where period of detention has expired

(5) An involuntary patient whose authorized period of detention has not expired may be continued as an informal patient upon completion of the prescribed form by the attending physician. 1967, c. 51, s. 13.

Idem, where period of detention has not expired

14.—(1) Where a judge has reason to believe that a person who appears before him charged with or convicted of an offence suffers from mental disorder, the judge may order the person to attend a psychiatric facility for examination.

Judge's order for examination

(2) Where an examination is made under this section, the senior physician shall report in writing to the judge as to the mental condition of the person.

Senior physician's report

(3) If the senior physician reports that the person examined needs treatment, the judge may order the person to attend a psychiatric facility for treatment. 1967, c. 51, s. 14, *amended*.

Judge's order for treatment

15.—(1) Where a judge has reason to believe that a person in custody who appears before him charged with an offence suffers from mental disorder, the judge may, by order, remand that person for admission as a patient to a psychiatric facility for a period of not more than two months.

Judge's order for admission

(2) Before the expiration of the time mentioned in such order, the senior physician shall report in writing to the judge as to the mental condition of the person. 1967, c. 51, s. 15.

Senior physician's report

16. A judge shall not make an order under section 14 or 15 until he ascertains from the senior physician of a psychiatric facility that the services of the psychiatric facility are available to the person to be named in the order. 1967, c. 51, s. 16, *amended*.

Condition precedent to judge's order

17. Notwithstanding this or any other Act or any regulation made under any other Act, the senior physician may report all or any part of the information compiled by the psychiatric facility to any person where, in the opinion of the senior physician, it is in the best interests of the person who is the subject of an order made under section 14 or 15. 1967, c. 51, s. 17.

Contents of senior physician's report

Persons
detained
under
1953-54,
c. 51 (Can.)

13. Any person who, pursuant to the *Criminal Code* (Canada), is,

- (a) remanded to custody for observation; or
- (b) detained under the authority of a warrant of the Lieutenant Governor,

may be admitted to, detained in, and discharged from a psychiatric facility in accordance with the law. 1967, c. 51, s. 18.

Communi-
cations to
and from
patients

19.—(1) Except as provided in this section, no communication written by a patient or sent to a patient shall be opened, examined or withheld, and its delivery shall not in any way be obstructed or delayed.

Where
communica-
tion may be
withheld

(2) Where the officer in charge or a person acting under his authority has reasonable and probable cause to believe,

- (a) that the contents of a communication written by a patient would,
 - (i) be unreasonably offensive to the addressee, or
 - (ii) prejudice the best interests of the patient; or
- (b) that the contents of a communication sent to a patient would,
 - (i) interfere with the treatment of the patient, or
 - (ii) cause the patient unnecessary distress,

the officer in charge or a person acting under his authority may open and examine the contents thereof and, if any condition mentioned in clause *a* or *b*, as the case may be, exists, may withhold such communication from delivery.

Exceptions

(3) Subsection 2 does not apply to a communication written by a patient to, or appearing to be sent to a patient by,

- (a) a barrister and solicitor;
- (b) a member of a review board or advisory review board under this Act; or
- (c) a member of the Assembly. 1967, c. 51, s. 19.

Leave of
absence

20.—(1) The officer in charge may, upon the advice of the attending physician, place a patient on leave of absence from the psychiatric facility for a designated period of not more than three months, if the intention is that the patient shall return thereto.

Terms and
conditions

(2) Leave of absence may be permitted upon such terms and conditions as the officer in charge may prescribe.

Exception

(3) Subsection 1 does not authorize the placing of a patient on leave of absence where he is subject to detention otherwise than under this Act. 1967, c. 51, s. 20.

21.—(1) A patient who is subject to detention and who, without authorization, is absent from a psychiatric facility may be returned thereto by a constable or other peace officer or by any person appointed by the office in charge, Unauthorized absence

- (a) within twenty-four hours after his absence becomes known to the officer in charge; or
- (b) under the authority of an order in the prescribed form issued by the officer in charge, within one month after his absence becomes known to the officer in charge.

(2) A patient who is being returned under subsection 1 may be detained in an appropriate place in the course of his return. Detention during return

(3) For the purposes of this Act, a patient who is returned under subsection 1 may be detained for the remainder of the period of detention to which he was subject when his absence became known to the officer in charge. Period of detention upon return

(4) Where a patient is not returned within one month after his absence became known to the officer in charge, he shall, unless subject to detention otherwise than under this Act, be deemed to be discharged from the psychiatric facility. Where not returned

(5) No person shall do or omit to do any act for the purpose of aiding, assisting, abetting or counselling a patient in a psychiatric facility to be absent without authorization. 1967, c. 51, s. 21. Prohibitions

22.—(1) Upon the advice of the attending physician, the officer in charge of a psychiatric facility may, if otherwise permitted by law and subject to arrangements being made with the officer in charge of another psychiatric facility, transfer a patient to such other psychiatric facility upon completing a memorandum of transfer in the prescribed form. Transfer of patients from one facility to another

(2) Where a patient is transferred under subsection 1, the authority to detain him continues in force in the psychiatric facility to which he is so transferred. 1967, c. 51, s. 22. Authority to detain

23.—(1) Upon the advice of the attending physician that a patient requires hospital treatment that cannot be supplied in the psychiatric facility, the officer in charge may, if otherwise permitted by law, transfer the patient to a public hospital for such treatment and return him to the psychiatric facility upon the conclusion thereof. Treatment in public hospital

(2) Where a patient is transferred under subsection 1, the superintendent of the public hospital has, in addition to the powers conferred upon him by the Act under which the hospital operates, the powers under this Act of an officer in charge of a psychiatric facility in respect of the custody and control of the patient. 1967, c. 51, s. 23. Powers of superintendent

Transfer
of patients to
institutions
outside
Ontario

24. Where it appears to the Minister,

- (a) that a patient in a psychiatric facility has come or been brought into Ontario from elsewhere and his hospitalization is the responsibility of another jurisdiction; or
- (b) that it would be in the best interests of a patient in a psychiatric facility to be hospitalized in another jurisdiction,

the Minister may, upon compliance in Ontario *mutatis mutandis* with the laws respecting hospitalization in such other jurisdiction, by warrant in the prescribed form authorize his transfer thereto. 1967, c. 51, s. 24.

Mentally
disordered
persons
coming into
Ontario

25.—(1) Where the Minister has reason to believe that a person suffering from a mental disorder may come or be brought into Ontario from elsewhere, the Minister may issue a warrant in the prescribed form which is sufficient authority to any person to convey the person named therein to a psychiatric facility and to the authorities thereof to admit and detain him.

Idem

(2) A person admitted to a psychiatric facility under subsection 1 shall be deemed to have been admitted as an involuntary patient under section 8. 1967, c. 51, s. 25.

Discharge
of patients

26.—(1) A patient shall be discharged from a psychiatric facility when he is no longer in need of the observation, care and treatment provided therein.

Exception

(2) Subsection 1 does not authorize the discharge into the community of a patient who is subject to detention otherwise than under this Act. 1967, c. 51, s. 26.

Review
boards

27.—(1) The Lieutenant Governor in Council may appoint a review board for any one or more psychiatric facilities.

Composition

(2) A review board shall be composed of three or five members, at least one and not more than two of whom are psychiatrists and at least one and not more than two of whom are barristers and solicitors and at least one of whom is not a psychiatrist or a barrister and solicitor.

Chairman

(3) The Lieutenant Governor in Council may designate one of the members of a review board as chairman.

Alternate
members

(4) The Lieutenant Governor in Council may appoint alternate members to a review board, and, where for any reason a member cannot act, the alternate member appropriate to comply with subsection 2 shall act in his stead.

Disqualifi-
cation

(5) An officer or servant of, or a person with a direct financial interest in, a psychiatric facility shall not act as a member of a review board when the case of a patient of that facility is being reviewed.

(6) A member shall hold office for the period, not to exceed three years, specified in his appointment, but is eligible for reappointment at the expiration of his term of office. Term of office

(7) A psychiatrist and a barrister and solicitor and another member who is not a psychiatrist or a barrister and solicitor constitute a quorum, and the decision of a majority is the decision of the review board. 1967, c. 51, s. 27. Quorum

28.—(1) An involuntary patient, or any person on his behalf, may apply in the prescribed form to the chairman of the review board having jurisdiction to inquire into whether the patient suffers from mental disorder of a nature or degree so as to require hospitalization in the interests of his own safety or the safety of others. Application for review by patient, etc.

- (2) An application under subsection 1 may be made, When application may be made
- (a) when any certificate of renewal respecting the patient comes into force; or
 - (b) when the patient, after having been admitted to a psychiatric facility, is subsequently continued as an involuntary patient.

(3) An application under subsection 1 may be made at any time by the Minister, the Deputy Minister or the officer in charge in respect of any involuntary patient. 1967, c. 51, s. 28. Application for review by Minister, etc.

29.—(1) Upon receipt of an application by the chairman, the review board shall conduct such inquiry as it considers necessary to reach a decision and may hold a hearing, which in the discretion of the review board may be *in camera*, for the purpose of receiving oral testimony. Inquiry and hearing

(2) Where a hearing is held, the patient may attend the hearing unless otherwise directed by the chairman and, where he does not attend, he may have a person appear as his representative. Attendance of patient at hearing

(3) Where a hearing is held, the patient or his representative may call witnesses and make submissions and, with the permission of the chairman, may cross-examine witnesses. Rights of patient at hearing

(4) The officer in charge shall, for the purpose of an inquiry, furnish the chairman with such information and reports as the chairman requests. Information, reports, etc.

(5) The review board or any member thereof may interview a patient or other person in private. 1967, c. 51, s. 29. Interview may be private

30.—(1) Upon the conclusion of an inquiry, the chairman shall prepare a written report of the decision of the review board and within the time prescribed by the regulations transmit a copy thereof to the applicant and to the officer in charge where he is not the applicant. Report

Implemen-
tation of
report

(2) Upon receipt of a copy of the decision, the officer in charge shall take any action required to give effect thereto. 1967, c. 51, s. 30.

Advisory
review
boards

31.—(1) The Lieutenant Governor in Council may appoint an advisory review board for any one or more psychiatric facilities that has a review board.

Composition

(2) An advisory review board shall be composed of a judge or a retired judge of the Supreme Court who shall serve as chairman, a psychiatrist and any three members who constitute a quorum of the review board.

Alternate
members,
etc.

(3) Subsections 4, 5 and 6 of section 27 apply *mutatis mutandis* to the members of an advisory review board.

Quorum

(4) The five members of an advisory review board constitute a quorum and the recommendation of a four-fifths majority is the recommendation of the advisory review board.

Functions

1953-54,
c. 51 (Can.)

(5) The case of every patient in a psychiatric facility who is detained under the authority of a warrant of the Lieutenant Governor under the *Criminal Code* (Canada) shall be considered by the advisory review board having jurisdiction once in every year, commencing with the year next after the year in which the warrant was issued.

Idem

(6) Notwithstanding subsection 5, the advisory review board shall consider the case of any patient to which that subsection applies at any time upon the written request of the Minister.

Application
of sec. 29

(7) Section 29 applies *mutatis mutandis* to cases under this section.

Report

(8) Upon the conclusion of an inquiry, the chairman shall prepare a written report of the recommendations of the advisory review board and, within the time prescribed by the regulations, shall transmit a copy thereof to the Lieutenant Governor in Council, and may in his discretion transmit a copy thereof to any other person. 1967, c. 51, s. 31.

PART III

ESTATES

Examination
as to
competency,
upon
admission

32.—(1) Forthwith upon the admission of a patient to a psychiatric facility, he shall be examined by a physician to determine whether he is competent to manage his estate.

Idem,
at any time

(2) The attending physician may examine a patient at any time to determine whether he is competent to manage his estate.

Certificate
of in-
competence

(3) If, after an examination under subsection 1 or 2, the examining physician is of the opinion that the patient is not competent to manage his estate, he shall issue a certificate of

incompetence in the prescribed form and the officer in charge shall forward the certificate to the Public Trustee.

(4) Where circumstances are such that the Public Trustee should immediately assume management of an estate, the officer in charge shall notify the Public Trustee in the fastest manner possible that a certificate of incompetence has been issued.

Idem,
exceptional
circum-
stances

(5) Notwithstanding that no certificate of incompetence has been issued in his case, a patient may, at any time, in writing signed and sealed by him, appoint the Public Trustee as committee of his estate while he is a patient in a psychiatric facility, and any such appointment may be revoked by the patient at any time in writing signed and sealed by him.

Appoint-
ment by
patient

(6) Where the Public Trustee is committee of a patient at the time of his admission to a psychiatric facility, a certificate of incompetence shall be deemed to have been issued and forwarded to the Public Trustee under subsection 3.

Where
Public
Trustee is
committee
at time of
admission
of patient

(7) This section does not apply to a patient whose estate is under committeeship under *The Mental Incompetency Act*, 1967, c. 51, s. 32.

Where
sec. 32 does
not apply
R.S.O. 1970,
c. 271

33.—(1) Notwithstanding that under *The Mental Incompetency Act* a person other than the Public Trustee has been appointed as the committee of the estate of a patient, the Supreme Court may at any time upon the application of the Public Trustee appoint him as committee in the stead of the person appointed under that Act, and on appointment the Public Trustee has and may exercise all the rights and powers conferred upon him by this Act with regard to the management of estates.

Where
Public
Trustee
may replace
committee
appointed
under R.S.O.
1970, c. 271

(2) If at any time a committee of the estate of a patient is appointed under *The Mental Incompetency Act*, the Public Trustee thereupon ceases to be committee and shall account for and transfer to the committee so appointed the estate of the patient that has come into his hands.

Duty of
Public
Trustee
where
committee
appointed
under R.S.O.
1970, c. 271

(3) An order shall not be made under *The Mental Incompetency Act* for the appointment of a committee of a patient without the consent of the Public Trustee unless seven days notice of the application has been given to him.

Consent of
Public
Trustee
to order

(4) The acts of the Public Trustee while committee of a patient are not rendered invalid by the making of an order appointing another committee. 1967, c. 51, s. 33.

Acts of
Public
Trustee not
affected

34. The Public Trustee is committee of the estate of a patient and shall assume management thereof,

Where
Public
Trustee
committee

- (a) upon receipt of a certificate of incompetence;
- (b) upon receipt of notice under subsection 4 of section 32;
or

- (c) upon receipt of an appointment under subsection 5 of section 32. 1967, c. 51, s. 34.

Financial
statement

35. Upon the Public Trustee becoming committee of the estate of a patient, the officer in charge shall forthwith forward a financial statement in the prescribed form to the Public Trustee. 1967, c. 51, s. 35.

Cancellation
of certificate
of in-
competence

36. The attending physician may, after examining a patient for that purpose, cancel the patient's certificate of incompetence, and in such case the officer in charge shall forward a notice of cancellation in the prescribed form to the Public Trustee. 1967, c. 51, s. 36.

Examination
as to
competency
before
discharge

37.—(1) A patient who is about to be discharged from a psychiatric facility and whose estate is being managed by the Public Trustee shall be examined by his attending physician to determine whether or not he will, upon discharge, be competent to manage his estate.

Notice of
continuance

(2) Where the attending physician is of the opinion, after the examination referred to in subsection 1, that the patient will not, upon discharge, be competent to manage his estate, he shall issue a notice of continuance in the prescribed form and the officer in charge shall forward the notice to the Public Trustee. 1967, c. 51, s. 37.

Where
Public
Trustee
ceases to be
committee

38. The Public Trustee ceases to be committee of the estate of a patient and shall relinquish management thereof,

- (a) upon receipt of notice of cancellation of the certificate of incompetence of the patient;
- (b) upon receipt of a revocation in writing, signed and sealed by the patient, of an appointment referred to in subsection 5 of section 32;
- (c) upon receipt of notice of discharge of the patient, unless he has at that time received a notice of continuance; or
- (d) upon the expiration of three months after the patient's discharge, where a notice of continuance was received. 1967, c. 51, s. 38.

Application
to review
board as to
competency

39.—(1) Where a certificate of incompetence or a notice of continuance has been issued, the patient may apply in the prescribed form to the chairman of the review board having jurisdiction to inquire into whether the patient is not competent to manage his estate.

Application
of secs. 28-30

(2) Except that applications may be made not more frequently than once in any twelve-month period, sections 28, 29 and 30 apply *mutatis mutandis* to applications under subsection 1. 1967, c. 51, s. 39.

40. No person, other than the Public Trustee, shall bring an action as next friend of a person of whose estate the Public Trustee is committee under this Act or by an order made under this Act without the leave of a judge of the court in which the action is intended to be brought, and the Public Trustee shall be served with notice of the application for such leave. 1967, c. 51, s. 40.

Leave of judge to bring action

41. When an action or proceeding is brought or taken against a patient in a psychiatric facility for whom a committee has not been appointed by the court and such action or proceeding is in connection with the estate of such person, the writ or other document by which the proceedings are commenced and any other document requiring personal service shall be served upon the Public Trustee endorsed with a written statement of the name of the psychiatric facility in which the patient is located, and shall also be served upon the patient, unless in the opinion of the attending physician personal service upon the patient would cause serious harm to him by reason of his mental condition, in which case it shall also be served upon the officer in charge. 1967, c. 51, s. 41.

Service of documents

42. The Public Trustee as committee of a patient has and may exercise all the rights and powers with regard to the estate of the patient that the patient would have if of full age and of sound and disposing mind. 1967, c. 51, s. 42.

Rights and powers of Public Trustee as committee

43. A person of whose estate the Public Trustee is committee under this Act or by an order made under this Act and his heirs, executors, administrators, next of kin, legatees, devisees and assigns shall have the same interest in any money or other property, real or personal, arising from a sale, mortgage, exchange or other disposition by the Public Trustee acting as such committee as they would have had in the property the subject of the sale, mortgage, exchange or other disposition if no sale, mortgage, exchange or other disposition had been made, and the surplus money or property shall be of the same nature as the property sold, mortgaged, exchanged or disposed of. 1967, c. 51, s. 43.

Nature of proceeds of sale, etc.

44. Upon the Public Trustee becoming committee of the estate of a person under this Act or by an order made under this Act, every power of attorney of such person is void. 1967, c. 51, s. 44.

When powers of attorney void

45. Any recital in a lease, mortgage or conveyance that a person is a patient in a psychiatric facility and that the Public Trustee is his committee is admissible in evidence as *prima facie* proof of the facts recited. 1967, c. 51, s. 45.

Recitals in documents

Purposes
for which
powers of
Public
Trustee
may be
exercised

46. The powers conferred upon the Public Trustee as committee of the estate of a patient may be exercised,

- (a) until the committeehip is terminated notwithstanding that the patient has been discharged from the psychiatric facility;
- (b) to carry out and complete any transaction entered into by the patient before he became a patient in a psychiatric facility;
- (c) to carry out and complete any transaction entered into by the committee notwithstanding that the committee-ship has been terminated or that the patient has died after the transaction was commenced. 1967, c. 51, s. 46.

Lien of
Public
Trustee for
costs, etc.

47.—(1) The costs, charges and expenses of the Public Trustee, including the costs, charges and expenses of or arising from or out of the passing of his accounts, whether before or after the termination of the committeehip or the death of the person of whose estate he is committee under this Act or by an order made under this Act, and any moneys advanced or liability incurred by him for or on behalf of such person or for the maintenance of such person's family are a lien upon the real and personal property of such person.

Notice of
lien in
case of real
property

(2) In the case of real property, the Public Trustee may register in the proper registry or land titles office a certificate under his hand and seal of office giving notice of the lien claimed and the real property against which it is claimed.

Withholding
of moneys
to secure
costs

(3) Where the Public Trustee is proceeding to have his accounts passed after the termination of the committeehip or the death of a person referred to in subsection 1, the Public Trustee may withhold sufficient moneys from the person's estate to adequately secure the costs of or arising from or out of the passing of such accounts. 1967, c. 51, s. 47.

When gifts,
etc., deemed
fraudulent

48. Every gift, grant, alienation, conveyance or transfer of property made by a person who is or becomes a patient shall be deemed to be fraudulent and void as against the Public Trustee if the same was not made for full and valuable consideration actually paid or sufficiently secured to such person or if the purchaser or transferee had notice of his mental condition. 1967, c. 51, s. 48.

Death of
patient

49. Upon the death of a patient and until letters probate of the will or letters of administration to the estate of the patient are granted to a person other than the Public Trustee and notice thereof is given to the Public Trustee, the Public Trustee may

continue to manage the estate and exercise with respect thereto the powers that an executor would have if the property were devised or bequeathed to him in trust for payment of debts and distribution of the residue. 1967, c. 51, s. 49.

50. The Public Trustee is liable to render an account as to the manner in which he has managed the property of the patient in the same way and subject to the same responsibility as any trustee, guardian or committee duly appointed for a similar purpose may be called upon to account, and is entitled from time to time to bring in and pass his accounts and tax costs in like manner as a trustee but is personally liable only for wilful misconduct. 1967, c. 51, s. 50.

Passing of
accounts

51. For the services rendered by the Public Trustee as committee of a patient, he may be allowed compensation not exceeding the amount that a trustee would be allowed for like services, but in cases of poverty or hardship the Public Trustee may forego any claim for compensation. 1967, c. 51, s. 51.

Compensa-
tion of
Public
Trustee

52.—(1) Where a person with respect to whom a notice of continuance has been received by the Public Trustee may not, based upon a report of the attending physician or other evidence available to the Public Trustee, be competent to manage his estate upon the termination of the committeehip or a person discharged has refused or neglected to take his property or any part thereof from the Public Trustee, the Public Trustee may apply to the Supreme Court for directions as to the disposal of such property, and the court may make such order as it considers just, and may in its discretion order that the Public Trustee continue to manage the estate of such person with all the rights and powers that the Public Trustee would have had under this Act if the committeehip had not been terminated.

Application
for
directions

(2) Where the Public Trustee continues to manage an estate under subsection 1, the Supreme Court may, upon application, make such further order as it considers just and may, in its discretion, order that the management of the estate by the Public Trustee be relinquished. 1967, c. 51, s. 52.

Further
orders

53. The Public Trustee shall, out of the money in his hands belonging to a patient for whom he is committee, pay the proper charges for his maintenance in the psychiatric facility in which he is a patient, and he may also pay such sums as he considers advisable to the patient's family or other persons dependent upon him, and the payments for the maintenance of the family and other dependants may be made notwithstanding that such payments may prevent the payment of maintenance that otherwise would be due from the patient. 1967, c. 51, s. 53.

Payments
out of
patient's
moneys

Payments
out of
moneys
in court

54. If there is any money in court to the credit of a patient, it shall be paid out to the Public Trustee upon his written application, and it is not necessary to obtain an order of the court or a judge for such purpose. 1967, c. 51, s. 54.

What
Public
Trustee
not required
to do

55. Nothing in this Act makes it the duty of the Public Trustee to institute proceedings on behalf of a patient or to intervene in respect of his estate or any part thereof or to take charge of any of his property. 1967, c. 51, s. 55.

Patients
in another
province
with estate
in Ontario

56.—(1) Where a person who is suffering from a mental disorder is a patient in a psychiatric facility in another province or territory of Canada and has estate situate in Ontario, the Lieutenant Governor in Council may appoint the official of the other province or territory who is charged with the duty of managing the estate of such person in the other province or territory to be committee of the estate in Ontario.

Order
conclusive

(2) The order making the appointment is conclusive proof that all the conditions precedent to the appointment have been fulfilled.

Rights and
powers of
appointee

(3) The appointee under such an order possesses the same rights, powers, privileges and immunities as are conferred by this Act upon the Public Trustee and he is subject to the same obligations and shall perform the same duties. 1967, c. 51, s. 56.

PART IV

VETERANS, ETC.

Agreement
with
Government
of Canada
authorized

57. The Lieutenant Governor in Council may authorize an agreement between Her Majesty the Queen in right of Ontario represented by the Minister and Her Majesty the Queen in right of Canada represented by the Minister of any department of the Government of Canada that is from time to time charged with the observation, care and treatment of persons who are suffering from a mental disorder whereunder that department may establish, operate, maintain, control and direct in Ontario psychiatric facilities within the meaning of this Act for the observation, care and treatment of such persons, and where such an agreement is made, it may provide that the provisions of Parts II and III of this Act and the relevant regulations, or any of them, apply *mutatis mutandis*. 1967, c. 51, s. 57.

PART V

MISCELLANEOUS

58. All actions, prosecutions or other proceedings against any person or psychiatric facility for anything done or omitted to be done in pursuance or intended pursuance of this Act or the regulations shall be commenced within six months after the act or omission complained of occurred and not afterwards. 1967, c. 51, s. 58. Limitation of actions, etc.

59. No action lies against any psychiatric facility or any officer, employee or servant thereof for a tort of any patient. 1967, c. 51, s. 59. Certain actions barred

60. Every person who contravenes or is a party to the contravention, directly or indirectly, of any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. 1967, c. 51, s. 60. Offence

61.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) designating and classifying psychiatric facilities, and exempting any psychiatric facility or class thereof from the application of any provision of the regulations made under clause b;
- (b) in respect of psychiatric facilities or any class thereof,
 - (i) providing for the creation, establishment, construction, alteration, renovation and maintenance thereof,
 - (ii) prescribing the accommodation, facilities, equipment and services thereof,
 - (iii) providing for the government, management, conduct, operation, use and control thereof,
 - (iv) providing for the officers and staff and prescribing their qualifications,
 - (v) prescribing the forms, records, books, returns and reports to be made and kept in connection therewith and providing for returns, reports and information to be furnished to the Department;
- (c) prescribing additional duties of officers designated and persons appointed under subsection 1 of section 4;
- (d) prescribing the classes of grants by way of provincial aid to any psychiatric facility or class thereof and the methods of determining the amounts of grants and providing for the manner and times of payment and the

suspension and withholding of grants and for the making of deductions from grants;

- (e) exempting any psychiatric facility or class thereof from the application of Part II;
- (f) classifying patients, and limiting the classes of patients that may be admitted to any psychiatric facility or class thereof;
- (g) respecting the examination and detention of persons and the admission, detention, leave of absence, absence without authorization, transfer, discharge and placement of patients;
- (h) prescribing the manner in which applications may be made to a review board;
- (i) governing and regulating hearings and other proceedings of review boards and advisory review boards;
- (j) prescribing the time in which decisions of review boards or recommendations of advisory review boards shall be transmitted;
- (k) providing for the remuneration and expenses of members of review boards and advisory review boards;
- (l) conferring ancillary functions upon review boards and advisory review boards;
- (m) exempting any psychiatric facility or class thereof from the application of Part III;
- (n) prescribing forms and providing for their use;
- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Relief from
compliance

- (2) Where, in the opinion of the Minister,
 - (a) it is impracticable for a psychiatric facility to comply with any provision of the regulations made under clause b of subsection 1; and
 - (b) it is in the best interests of the population served by such psychiatric facility,

he may, by his authorization in writing, relieve such psychiatric facility from the application of such provision for such period and upon such conditions as he specifies in the authorization.

R.S.O. 1970,
c. 410 not
to apply

- (3) *The Regulations Act* does not apply to an authorization of the Minister made under subsection 2. 1967, c. 51, s. 61.

CHAPTER 270

The Mental Hospitals Act

1. In this Act and the regulations, unless the context otherwise requires, Interpretation

- (a) “approved home” means a home to which patients may be released from an institution in the manner provided by this Act and the regulations;
- (b) “child” includes a son and daughter;
- (c) “Department” means the Department of Health;
- (d) “Deputy Minister” means the Deputy Minister of Health;
- (e) “institution” means an institution under this Act, and includes every approved home connected therewith;
- (f) “Minister” means the Minister of Health;
- (g) “officer in charge” means the officer of the Department who is appointed as the superintendent or hospital administrator of an institution;
- (h) “parent” includes a father and mother;
- (i) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 236, s. 1; 1967, c. 52, s. 1.

2. This Act applies to such institutions as are designated from time to time by the regulations. R.S.O. 1960, c. 236, s. 2. Application to certain institutions

3. Each institution shall be known by such name as the Lieutenant Governor in Council may designate. 1967, c. 52, s. 2, *part.* Names of institutions

4. The Lieutenant Governor in Council may designate any provision of *The Public Hospitals Act* or of the regulations thereunder as being applicable to any institution under this Act. 1967, c. 52, s. 2, *part.* Application of R.S.O. 1970, c. 378

5.—(1) The Lieutenant Governor in Council may make such regulations as are necessary for carrying out this Act and for the efficient administration thereof. R.S.O. 1960, c. 236, s. 5 (1). Regulations

(2) Without limiting the generality of subsection 1, the powers of the Lieutenant Governor in Council to make regulations in the manner set out therein extend to and include, Idem

- (a) designating the institutions to which this Act applies;
- (b) prescribing the district to be served and classes of patient to be treated in any institution;
- (c) prescribing the powers and duties of the Deputy Minister;
- (d) providing for the appointment of officers and employees, and prescribing their powers and duties;
- (e) regulating the inspection, superintendence, government, management, conduct, operation, maintenance, care and use of institutions and equipment;
- (f) regulating the care, treatment and maintenance of patients;
- (g) classifying patients and persons and exempting any class of patients or persons from any provision of this Act;
- (h) prescribing the forms relating to patients and all other forms required for the carrying out of this Act and the regulations;
- (i) prescribing the records, books, accounting systems, audits, reports and returns to be made and kept respecting institutions;
- (j) regulating the financial business and affairs of institutions;
- (k) providing for the granting and withdrawing of certificates of approval to approved homes, and fixing the fees payable therefor;
- (l) fixing the situation, construction and equipment of approved homes;
- (m) declaring that any institution or part thereof shall be exempt from any provision of this Act or of the regulations;
- (n) prescribing the charges that shall be paid by the persons liable for the maintenance of patients in institutions;
- (o) prescribing the amounts to be paid by the Department for the care and maintenance of patients or former patients in approved homes;
- (p) prescribing the amounts of contributions that may be made to public hospitals by the Minister under section 10 and the manner and conditions of making such contributions;

- (q) prescribing the amounts that may be paid by the Department to medical practitioners who are not officers of the Department for the examination of persons who are or are believed to be in need of observation, care and treatment in an institution, and prescribing the terms and conditions of such payments;
- (r) prescribing the costs and expenses referred to in subsection 1 of section 16;
- (s) generally, the control of all other matters in any way relating to institutions, and respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 236, s. 5 (2); 1961-62, c. 79, s. 1 (2); 1967, c. 52, s. 3, *amended*.

ADMINISTRATION AND CONTROL

6.—(1) The administration of this Act and of every institution thereunder is vested in the Department, and the Deputy Minister is the chief executive officer of the Department and is responsible to and subject to the control of the Minister.

Adminis-
tration
vested in
the
Department

(2) Where this Act and the regulations require or authorize the Deputy Minister to do any act, such act may be done by any person whom the Deputy Minister appoints to do such act. R.S.O. 1960, c. 236, s. 6.

Delegation
of authority
by Deputy
Minister

7.—(1) Subject to section 6, the officer in charge of an institution is in charge of and has control over the institution for which he is appointed, and shall superintend the conduct and management of all its affairs and control all officers, clerks, servants and employees thereof and all the patients therein.

Officer in
charge to
control the
institution

(2) Where this Act or the regulations require or authorize the officer in charge of an institution to do any act, such act may be done by any person whom the officer in charge appoints to do such act. 1967, c. 52, s. 4.

Delegation
of powers
and duties

8. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. 1967, c. 52, s. 7.

Offences
and
penalties

9. All actions and prosecutions against any person for anything done or omitted to be done in pursuance of this Act shall be commenced within six months after the act or omission complained of has been committed, and not afterwards. R.S.O. 1960, c. 236, s. 10 (2).

Limitation
of actions

PATIENTS IN INSTITUTIONS

Contribu-
tions by
Ontario

10. The Minister, out of the moneys appropriated by the legislature for the purpose, may contribute toward the cost of treatment in public hospitals of indigent patients transferred thereto in such amounts, in such manner and under such conditions as are prescribed by the regulations. 1967, c. 52, s. 9.

Special
inquiry by
Deputy
Minister

11.—(1) Where the Deputy Minister is authorized by the Minister to institute an inquiry into the management or affairs of an institution, or into any matter in connection therewith, or into the truth of any returns made by any officer thereof and considers that any person should give evidence before him on oath, the Deputy Minister has the same power to summon such person to attend as a witness, to enforce his attendance and to compel him to produce documents and to give evidence as a court in civil cases. 1967, c. 52, s. 10.

Inspector
appointed
under
other Act

(2) An inspector appointed under any other Act, the administration of which is under the charge of the Minister, may when authorized by the Minister exercise the powers conferred by subsection 1 in respect of any hospital or other institution subject to such other Act. R.S.O. 1960, c. 236, s. 18 (2).

APPROVED HOMES

Certificate
for approved
home

12. The Minister may issue certificates approving of any building, premises or place as an approved home for the reception of patients who are released from an institution into the custody of such home, and entitling any person to receive into the approved home one or more patients as if such home had been established as an institution under this Act. 1967, c. 52, s. 24, *part*.

Release of
patients to
approved
homes

13.—(1) If the officer in charge considers it conducive to the recovery of a patient, the officer in charge may place the patient in an approved home, subject to this Act and the regulations.

Idem

(2) Subsection 1 does not authorize the placing of a patient in an approved home where he is subject to detention otherwise than under *The Mental Health Act*. 1967, c. 52, s. 24, *part*.

R.S.O. 1970,
c. 269

Application
of the Act
to patients
in approved
homes

14. A patient admitted to an institution who is placed in an approved home shall for the purposes of this Act and the regulations be and be deemed to continue as a patient in the institution in the same manner and to the same extent and be subject to the same control as if he were not so released but had remained in the institution. R.S.O. 1960, c. 236, s. 43.

LIABILITIES OF MUNICIPALITIES, MAINTENANCE,
PROPERTY

15. The officer in charge may establish, maintain, operate and manage industrial rehabilitation programs for the beneficial employment and remuneration of patients and other persons, and may enter into agreements with respect to such programs and provide for remuneration in connection therewith. 1967, c. 52, s. 34. Industrial rehabilitation programs

16.—(1) The costs and expenses incurred under section 9, 10, 14 or 15 of *The Mental Health Act* in determining the mental condition of a person and in conveying the person to and from an institution shall be paid by the municipality from which the person came or was sent to an institution in such amounts as are prescribed by the regulations. 1967, c. 52, s. 35. Liability of municipality
R.S.O. 1970, c. 269

(2) The Lieutenant Governor in Council may make regulations exempting municipalities from costs and expenses incurred in determining the mental condition of a person under any section mentioned in subsection 1 and providing for payment of such costs and expenses by the Department upon such terms and conditions as may be prescribed by the regulations. 1962-63, c. 81, s. 8 (2). Saving

(3) Where the person is not in destitute circumstances, the costs and expenses incurred by a municipality under subsection 1 or by the Department under subsection 2 may be recovered by the municipality or the Department, as the case may be, from his estate or from him or the person liable for his maintenance. R.S.O. 1960, c. 236, s. 72 (2); 1962-63, c. 81, s. 8 (3). Recovery from estate, etc.

(4) Subject to subsection 3, where such costs and expenses are paid by a municipality in which the person did not actually reside at the time of his admission to an institution, they may be recovered by the municipality paying them from the municipality in which the person actually resided at the time of admission to an institution. Recovery from municipality where patient resided

(5) Such costs and expenses shall be reimbursed to the municipality by the county where the municipality paying the same is a part of the county for municipal purposes. R.S.O. 1960, c. 236, s. 72 (3, 4). Reimbursement

17.—(1) Upon due application for the admission of a person, the officer in charge of the institution shall make a full and thorough inquiry respecting the estate, either in existence or in prospect, of the person and of its sufficiency, free from all claims of his family, to supply the means necessary for his maintenance and clothing in the institution as provided by the regulations. Inquiry regarding estate

(2) The officer in charge shall where possible require from the person liable for maintenance of the patient an agreement or bond Bond for maintenance

to secure the payment of the patient's maintenance, either in whole or in part, and the agreement or bond shall continue in force so long as the patient is maintained in an institution. 1967, c. 52, s. 37.

Liability
limited

(3) Where the obligation is for a limited period, nothing herein extends the liability beyond the period limited.

Liability of
patient's
estate

(4) The giving of an agreement or bond in no way releases the estate of the patient from its obligation to maintain and clothe him in the institution as hereinafter provided. R.S.O. 1960, c. 236, s. 74 (3, 4).

Patient's
liability

18. Every patient admitted to an institution who has at the time of his admission or subsequently comes into the possession of property is liable for his maintenance. R.S.O. 1960, c. 236, s. 75.

Liability for
married
women

19. Every person whose wife is a patient is liable for her maintenance. R.S.O. 1960, c. 236, s. 76.

Notice of
liability

20.—(1) The officer in charge of an institution shall send a written notice on the first day of each of the months of January, April, July and October to the person liable for payment of the maintenance of a patient, giving the date of the patient's admission to the institution and the amount that is due and owing for his maintenance as provided by the regulations, and in the notice a demand shall be made by the officer in charge upon the person liable for payment of maintenance for such sum as is due and owing, and the sum shall be paid forthwith on the demand.

Proof of
notice and
demand for
payment

(2) In an action or other proceeding to recover a sum owing by a person, municipal corporation or the estate of a person for the maintenance of a patient, it is sufficient to prove that the officer in charge sent the notice and demand for payment referred to in subsection 1 within the three months preceding the commencement of the action or other proceeding, and no proof is required that any prior notices or demands for payment were sent. 1967, c. 52, s. 38.

Application
order for
payment of
main-
tenance

21.—(1) In case of refusal or neglect to pay the sum so demanded, the Deputy Minister or any officer whom he designates may apply to a judge of the county or district court of the county or district in which the person liable to pay resides for an order for the payment of the amount then due.

Notice

(2) Ten days notice of the application shall be given.

Judge's
order

(3) If the judge is satisfied that the person against whom the application is made is liable, he may make an order accordingly, and the order may be enforced in the same manner as a judgment of the court. R.S.O. 1960, c. 236, s. 79.

22. Notwithstanding the provisions of this Act, the Lieutenant Governor in Council may make regulations respecting the computation of the amount that is due and owing for maintenance of patients for the purpose of, Regulations re maintenance

- (a) prescribing a limit of not less than six years upon the period of time for which the amount that is due and owing for maintenance shall be computed, or otherwise reducing such amount upon such terms and conditions as are prescribed;
 - (b) authorizing the Deputy Minister or other designated person to give discharges for amounts paid under the regulations. 1960-61, c. 55, s. 2.
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CHAPTER 271

The Mental Incompetency Act**1. In this Act,**Interpre-
tation

- (a) “contingent right”, as applied to land, includes a contingent and an executory interest, a possibility coupled with an interest whether the object of the gift or limitation or such interest or possibility is or is not ascertained, and a right of entry whether immediate or future and whether vested or contingent;
- (b) “convey” and “conveyance”, applied to a person, mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another land whereof such person is seised, or in which such person is entitled to a contingent right, either for the whole estate of such person or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance;
- (c) “court” means the county or district court of a county or district;
- (d) “land” includes messuages, tenements, and hereditaments, corporeal and incorporeal of every tenure or description, whatever may be the estate or interest therein, and whether entire or undivided;
- (e) “mentally incompetent person” means a person,
 - (i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or
 - (ii) who is suffering from such a disorder of the mind, that he requires care, supervision and control for his protection and the protection of his property;
- (f) “mental incompetency” means the condition of mind of a mentally incompetent person;
- (g) “mortgage” includes every interest or property in real or personal estate that is a security for money or money’s worth;
- (h) “possessed” is applicable to any vested estate less than a life estate at law or in equity, in possession or in expectancy in any land;

- (i) "seised" is applicable to any vested interest for life or of a greater description, and extends to estates at law and in equity in possession or in futurity in any land;
- (j) "stock" includes shares and any fund, annuity or security transferable in books kept by a company or society, or by instrument of transfer alone, or by instrument of transfer accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Acts relating to merchant shipping;
- (k) "trust" and "trustee" include implied and constructive trusts and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of a deceased person, but not the duties incident to an estate conveyed by way of mortgage. R.S.O. 1960, c. 237, s. 1; 1964, c. 60, s. 1.

JURISDICTION OF COURT

Jurisdiction,
county and
district
courts

2.—(1) Except where otherwise provided, proceedings under this Act shall be brought in the county or district court of the county or district in which the person against whom the proceedings are to be brought has his fixed place of abode.

Idem

(2) Where the person against whom proceedings under this Act are to be brought has no fixed place of abode in Ontario, the proceedings shall, except where otherwise provided, be brought in the county or district court of any county or district in which such person has property. 1964, c. 60, s. 2, *part*.

Removal of
proceedings
into
Supreme
Court

3.—(1) The respondent in proceedings under this Act may, upon such notice and otherwise as the rules of court prescribe, require the proceedings to be removed into the Supreme Court.

Trans-
mission
of papers

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers to the proper office of the Supreme Court in the county or district in which the proceedings were brought.

Removal of
proceedings

(3) When the papers are received at the proper office of the Supreme Court, the proceedings are *ipso facto* in the Supreme Court and the provisions of this Act respecting such proceedings in a county or district court apply to the proceedings in the Supreme Court. 1964, c. 60, s. 2, *part, amended*.

Powers of
the court
R.S.O. 1970,
c. 270

4.—(1) Subject to *The Mental Hospitals Act*, the court has all the powers, jurisdiction and authority of Her Majesty over and in relation to the persons and estates of mentally incompetent persons, including the care and the commitment of the custody of mentally incompetent persons and of their persons and estates.

(2) The court may make orders for the custody of mentally incompetent persons and the management of their estates, and every such order takes effect, as to the custody of the person, immediately and, as to the custody of the estate, upon the completion of the committee's security. R.S.O. 1960, c. 237, s. 2. Orders of court

5. The powers conferred by this Act upon the court may be exercised by a judge thereof in chambers. R.S.O. 1960, c. 237, s. 3. Exercise of powers

6. Where proceedings under this Act are in the Supreme Court, it may delegate to a master, official referee or other officer any or all of its powers under this Act except the making of a declaration of mental incompetency, the confirmation of the appointment of a committee or the confirmation of a scheme of management. 1964, c. 60, s. 3. Delegation of powers, S.C.O.

DECLARATION OF MENTAL INCOMPETENCY

7.—(1) The court upon application supported by evidence may by order declare a person a mentally incompetent person if the court is satisfied that the evidence establishes beyond reasonable doubt that he is a mentally incompetent person. R.S.O. 1960, c. 237, s. 5 (1). Declaration of mental incompetency

(2) The application may be made by the Minister of Justice and Attorney General, by any one or more of the next of kin of the alleged mentally incompetent person, by his or her wife or husband, by a creditor, or by any other person. R.S.O. 1960, c. 237, s. 5 (2), *amended*. By whom application to be made

(3) The alleged mentally incompetent person and any person aggrieved or affected by the order has the right to appeal therefrom. Appeal

(4) The practice and procedure on the appeal shall be the same as on an appeal from an order made by a judge of the court. R.S.O. 1960, c. 237, s. 5 (3, 4). Procedure

8.—(1) Where in the opinion of the court the evidence does not establish beyond reasonable doubt the alleged mental incompetency, or where for any other reason the court considers it expedient so to do, instead of making an order under subsection 1 of section 7, the court may direct an issue to try the alleged mental incompetency. Issue to try the alleged mental incompetency

(2) Subject to section 9, the issue shall be tried with or without a jury as the court directing it or the judge presiding at the trial may order. Method of trial

(3) The trial shall take place at such time and place as the court may direct. Time and place

Production
of mentally
incompetent
person

(4) On the trial of the issue the alleged mentally incompetent person, if within the jurisdiction of the court, shall be produced, and shall be examined at such time and in such manner, either in open court or privately, and, where the trial is with a jury, before the jury retire to consider their verdict, as the presiding judge may direct, unless the court by the order directing the issue or the judge presiding at the trial dispenses with the production of the mentally incompetent person or with his examination.

Scope of
inquiry

(5) On the trial of the issue the inquiry shall be confined to the question whether or not the person who is the subject of the inquiry is at the time of the inquiry a mentally incompetent person and incapable of managing himself or his affairs, and the presiding judge shall make an order in accordance with the result of the inquiry.

Procedure

(6) The practice and procedure as to the preparation, entry for trial and trial of the issue, and all the proceedings incidental thereto, shall be the same as in the case of any other issue directed by the court or a judge.

Appeal

(7) The alleged mentally incompetent person and any person aggrieved or affected thereby have the like right to move against a verdict or to appeal from an order made upon or after the trial as may be exercised by a party to an action in the court including the right of appeal, and the court hearing any such motion or appeal has the same powers as upon a motion against a verdict or an appeal from a judgment entered at or after the trial of an action.

Finality

(8) Subject to section 11, the order or judgment of the court or, where the issue is tried by a jury, the verdict of the jury is final unless set aside upon appeal or motion under subsection 9. R.S.O. 1960, c. 237, s. 6.

Trial
by jury

9. An alleged mentally incompetent person is entitled to demand, by notice in writing to be given to the person applying for the declaration of his mental incompetency and also to be filed in the office of the clerk of the county or district court in which the proceedings have been brought, at least ten days before the first day of the sittings at which the issue is directed to be tried, that any issue directed to determine the question of his mental incompetency shall be tried with a jury, and, unless he withdraws the demand before the trial, or the court is satisfied by personal examination of the mentally incompetent person that he is not mentally competent to form and express a wish for a trial by jury and so declares by order, the issue shall be tried by a jury. R.S.O. 1960, c. 237, s. 7; 1964, c. 60, s. 4.

Examination
of alleged
mentally
incompetent
person

10.—(1) For the purposes of the examination mentioned in section 9, or where it is considered proper for any other purpose, the court may require the alleged mentally incompetent person to attend at such convenient time and place as the court appoints.

(2) The court may by order require an alleged mentally incompetent person to attend and submit to examination by one or more medical practitioners at such time and place as the order directs. R.S.O. 1960, c. 237, s. 8.

Order for
medical
examination

SUPERSEDING DECLARATION OF MENTAL INCOMPETENCY

11.—(1) Upon application at any time after the expiration of one year from the date of the order by which a person has been declared a mentally incompetent person, or sooner by leave of the court, the court, if satisfied that the person has become mentally competent and capable of managing his own affairs, may make an order so declaring.

Application
to supersede
declaration
of mental
incom-
petency

(2) Any such order is subject to appeal as provided by subsections 3 and 4 of section 7.

Appeal

(3) Instead of making an order under subsection 1, the court may direct an issue to try the question of the recovery of the person so formerly declared or adjudged a mentally incompetent person.

Directing
issue as to
recovery

(4) Any issue so directed is subject to sections 8 and 9.

Application
of ss. 8 and 9

(5) Where a person formerly declared a mentally incompetent person has been found to be mentally competent and capable of managing his own affairs and the time for appealing from or moving against the order or verdict has expired, or if an appeal is taken or a motion made, when the same has been finally dismissed, an order may be issued superseding, vacating, and setting aside the order declaring the mental incompetency of the person for all purposes except as to acts or things done in respect of the person or estate of the mentally incompetent person while the order was in force. R.S.O. 1960, c. 237, s. 9.

Order
superseding
declaration
of mental
incom-
petency

COMMITTEES OF ESTATES OF MENTALLY INCOMPETENT PERSONS

12.—(1) Where an order has been made declaring a person a mentally incompetent person under section 7 or incapable of managing his affairs under section 39, the court, in the same or a subsequent order, shall,

Supple-
mental
powers of
court

- (a) appoint a committee of the person or of the estate of the person, or both;
- (b) propound a scheme for the management of the estate of the person; and
- (c) fix a time for the passing of the accounts of the committee,

but no order, in so far as it appoints a permanent committee or propounds a scheme of management, is effective until confirmed by the Supreme Court in the manner prescribed by the rules of court.

Order to
be filed
in S.C.O.

(2) The appointment of the committee and the scheme of management shall be filed in the office of the local registrar of the Supreme Court and shall be forthwith transmitted by him to the Registrar of the Supreme Court for confirmation as required by subsection 1.

Interim
committee

(3) The court may appoint a committee to act with such powers as it may confer upon him until a scheme of management is propounded and a permanent committee appointed, and any such appointment need not be confirmed. 1964. c. 60, s. 5.

Duties

13. Where a committee of the estate of a mentally incompetent person has been appointed,

- (a) the committee shall, within six months after being appointed, file in the office of the clerk of the court in which the appointment was made a true inventory of the whole real and personal estate of the mentally incompetent person, stating the income and profits thereof, and setting forth the debts, credits, and effects of the mentally incompetent person, so far as they have come to the knowledge of the committee;
- (b) if any property belonging to the estate is discovered after the filing of the inventory, the committee shall file a true account of such property from time to time as it is discovered;
- (c) every inventory and account shall be verified by the oath of the committee;
- (d) the committee shall give security for the due performance of his duties in such amount as the court may direct, which security shall be in the form of a bond in the name of the clerk of the court and shall be filed in his office; and
- (e) the committee shall pass his accounts from time to time at such intervals as the court may direct. R.S.O. 1960, c. 237, s. 10; 1964, c. 60, s. 6.

MANAGEMENT AND ADMINISTRATION

Powers of
court as to
maintenance
of mentally
incompetent
person or his
family

14. The powers conferred by this Act as to the management and administration of a mentally incompetent person's estate are exercisable in the discretion of the court for the maintenance or benefit of the mentally incompetent person or of his family or, where it appears to be expedient, in the due course of management of the property of the mentally incompetent person. R.S.O. 1960, c. 237, s. 11.

15. Nothing in this Act subjects a mentally incompetent person's property to claims of his creditors further than it is now subject thereto by due course of law. R.S.O. 1960, c. 237, s. 12. Rights of creditors

16.—(1) The court may order that any property of the mentally incompetent person, whether present or future, be sold, charged, mortgaged, dealt with or disposed of as is considered most expedient for the purpose of raising or securing or repaying, with or without interest, money that is to be or has been applied to, Power to raise money for certain purposes

- (a) payment of the mentally incompetent person's debts or engagements;
- (b) discharge of any encumbrance on his property;
- (c) payment of any debt or expenditure incurred for his maintenance or otherwise for his benefit;
- (d) payment of or provision for the expenses of his future maintenance.

(2) Where a charge or mortgage is made under this Act for the expenses of future maintenance, the court may direct the same to be payable either contingently if the interest charged is contingent or future, or upon the happening of the event if the interest is dependent on an event that must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as are considered expedient. R.S.O. 1960, c. 237, s. 13. Terms of charge or mortgage

17.—(1) The court may order that the whole or a part of any moneys expended or to be expended under an order of the court for the permanent improvement, security, or advantage of the property of the mentally incompetent person, or of a part thereof, shall, with interest, be a charge upon the improved property or any other property of the mentally incompetent person, but so that no right of sale or foreclosure during the lifetime of the mentally incompetent person is conferred by the charge. Charging mentally incompetent person's estate for permanent improvements

(2) The interest shall be kept down during the mentally incompetent person's lifetime out of the income of his general estate, as far as his general estate is sufficient to bear it. Interest, how to be met

(3) The charge may be made either to a person advancing the money or, if the money is paid out of the mentally incompetent person's general estate, to a person as trustee for him as part of his personal estate. R.S.O. 1960, c. 237, s. 14. To whom charge to be made

18. The court may by order authorize and direct the committee of the estate of a mentally incompetent person to do all or any of the following things: Powers of committee under order of court

- (a) sell any property belonging to the mentally incompetent person;

- (b) make exchange or partition of any property belonging to the mentally incompetent person, or in which he is interested, and give or receive any money for equality of exchange or partition;
- (c) carry on any trade or business of the mentally incompetent person;
- (d) grant leases of any property of the mentally incompetent person for building, agricultural, or other purposes;
- (e) grant leases of minerals forming part of the mentally incompetent person's property, whether the minerals have been worked or not, and either with or without the surface or other land;
- (f) surrender any lease and accept a new lease;
- (g) accept a surrender of any lease and grant a new lease;
- (h) execute any power of leasing vested in a mentally incompetent person having a limited estate only in the property over which the power extends;
- (i) perform any contract relating to the property of the mentally incompetent person entered into by him before his mental incompetency;
- (j) surrender, assign, or otherwise dispose of with or without consideration any onerous property belonging to the mentally incompetent person;
- (k) exercise any power or give any consent required for the exercise of any power where the power is vested in the mentally incompetent person for his own benefit or the power of consent is in the nature of a beneficial interest in the mentally incompetent person;
- (l) give consent to the transfer or assignment of a lease where the consent of the mentally incompetent person to the transfer or assignment thereof is requisite;
- (m) invest or reinvest any money in his hands belonging to the mentally incompetent person in the classes of securities in which a trustee may invest trust money under *The Trustee Act*. R.S.O. 1960, c. 237, s. 15; 1964, c. 60, s. 7.

R.S.O. 1970,
c. 470

Property
exchanged
and renewed
lease to be
to same uses
as before

19. Any property taken in exchange and any renewed lease accepted on behalf of a mentally incompetent person under this Act shall be to the same uses and be subject to the same trusts, charges, encumbrances, dispositions, devices, and conditions as the property given in exchange or the surrendered lease was or would, but for the exchange or surrender, have been subject to. R.S.O. 1960, c. 237, s. 16.

20.—(1) The power to authorize leases of a mentally incompetent person's property under this Act extends to property of which the mentally incompetent person is tenant in tail, and every lease granted pursuant to any order under this Act binds the issue of the mentally incompetent person and all persons entitled in remainder and reversion expectant upon the estate tail of the mentally incompetent person, including the Crown, and every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the mentally incompetent person has the same rights and remedies against the lessee, his executors, administrators and assigns as the mentally incompetent person or his committee would have had.

Extent of
leasing
power

(2) Leases authorized to be granted or accepted by or on behalf of a mentally incompetent person under this Act may be for such number of lives or such term of years, at such rent and royalties, and subject to such reservations, covenants, and conditions as the court may approve.

Term

(3) Premiums or other payments on the renewal of leases may be paid out of the mentally incompetent person's estate, or charged with interest on the leasehold property. R.S.O. 1960, c. 237, s. 17.

Premiums,
etc., on
renewal

21.—(1) The mentally incompetent person, his heirs, executors, administrators, next of kin, devisees, legatees and assigns have the same interest in any money arising from any sale, mortgage or other disposition, under the powers of this Act, which may not have been applied under such powers, as he or they would have had in the property the subject of the sale, mortgage or disposition, if no sale, mortgage or disposition had been made, and the surplus money shall be of the same nature as the property sold, mortgaged or disposed of.

Nature of
proceeds of
sale and
mortgage

(2) Money received for equality of partition and exchange, or under any lease of unopened mines, and all premiums and sums of money received upon the grant or renewal of a lease, where the property the subject of the partition, exchange or lease was land of the mentally incompetent person, shall, subject to the application thereof for any purposes authorized by this Act, as between the representatives of the real and personal estate of the mentally incompetent person, be considered as real estate, except in the case of premiums and sums of money received upon the grant or renewal of leases of property of which the mentally incompetent person was tenant for life, in which case the premiums and sums of money are personal estate of the mentally incompetent person.

and of
money re-
ceived from
certain other
sources

(3) In order to give effect to this section, the court may direct any money to be carried to a separate account, and may order such assurances and things to be executed and done as are considered expedient. R.S.O. 1960, c. 237, s. 18.

Powers of
court

Power to
carry orders
into effect

22. The committee of the estate, or such person as the court may approve, shall, in the name and on behalf of the mentally incompetent person, execute and do all such assurances and things for giving effect to any order under this Act as the court may direct, and every such assurance and thing is valid and effectual and takes effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject. R.S.O. 1960, c. 237, s. 19.

Powers
vested in
mentally
incompetent
person as
trustee or
guardian

23. Where a power is vested in a mentally incompetent person in the character of trustee or guardian, or the consent of a mentally incompetent person to the exercise of a power is necessary in the like character, or as a check upon the undue exercise of the power, and it appears to the Supreme Court to be expedient that the power should be exercised or the consent given, the committee of the estate, in the name and on behalf of the mentally incompetent person, under an order of the Supreme Court made upon the application of any person interested, may exercise the power or give the consent in such manner as the order may direct. R.S.O. 1960, c. 237, s. 20; 1964, c. 60, s. 8.

Appoint-
ment of
trustees
by S.C.O.

24. Where the Supreme Court exercises, in the name and on behalf of a mentally incompetent person, a power of appointing new trustees vested in the mentally incompetent person, the Supreme Court, where it seems to be for the mentally incompetent person's benefit and also expedient, may make any order respecting the property subject to the trust that might have been made in the same case under *The Trustee Act* on the appointment thereunder of a new trustee or new trustees. R.S.O. 1960, c. 237, s. 21; 1964, c. 60, s. 9.

R.S.O. 1970,
c. 470

Provision for
maintenance
when dis-
ability is
temporary

25.—(1) Where it appears to the court that there is reason to believe that the mental incompetency of a mentally incompetent person so found is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision be made for the maintenance of the mentally incompetent person, or of the mentally incompetent person and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income or of ready money belonging to him and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available, and may be safely and properly applied in that behalf, the court may allow thereout such amount as is considered proper for the temporary maintenance of the mentally incompetent person or of the mentally incompetent person and the members of his immediate family who are dependent upon him for maintenance, and may, instead of proceeding to order a grant of the custody of the estate, order or give liberty for the payment of any such sum of money, or any

part thereof, to such person as in the circumstances of the case it is thought proper to entrust with the application thereof, and may direct it to be paid to such person accordingly, and when received to be applied and it shall accordingly be applied in or towards such temporary maintenance.

(2) The receipt in writing of the person to whom payment is to be made for any money payable to him by virtue of an order under this section is a good discharge, and every person shall act upon and obey every such order. Effect of receipt

(3) The person receiving any money by virtue of an order under this section shall pass an account thereof when and as the court may direct. Liability to account R.S.O. 1960, c. 237, s. 22.

VESTING ORDERS

26. Where any stock is standing in the name of or is vested in a mentally incompetent person beneficially entitled thereto, or is standing in the name of or vested in the committee of the estate of a mentally incompetent person so found in trust for the mentally incompetent person or as part of his property, and the committee dies intestate, or himself becomes a mentally incompetent person, or is out of Ontario, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock, or to receive or pay over the dividends thereof as directed by an order of the Supreme Court, then the Supreme Court may order some fit person to transfer the stock to or into the name of a new committee, or of the Accountant of the Supreme Court, or otherwise, and also to receive and pay over the dividends in such manner as it may direct. Power to transfer stock R.S.O. 1960, c. 237, s. 23; 1964, c. 60, s. 10.

27. Where any stock is standing in the name of or vested in a person residing out of Ontario, the Supreme Court, upon proof that he has been declared a mentally incompetent person and that his personal estate has been vested in a person appointed for the management thereof according to the law of the place where he is residing, may order some fit person to make such transfer of the stock or any part thereof to or into the name of the person so appointed, or otherwise, and also to receive and pay over the dividends thereof as it may direct. Stock in name of mentally incompetent person out of jurisdiction R.S.O. 1960, c. 237, s. 24; 1964, c. 60, s. 11.

28.—(1) Where a mentally incompetent person is solely or jointly seised or possessed of any land upon trust or by way of mortgage, the Supreme Court may by order vest the land in such person or persons for such estate and in such manner as it may direct. Power to vest land of mentally incompetent trustee or mortgagee R.S.O. 1960, c. 237, s. 25 (1); 1964, c. 60, s. 12 (1).

Or a contingent right

(2) Where a mentally incompetent person is solely or jointly entitled to a contingent right in any land upon trust or by way of mortgage, the Supreme Court may by order release the land from the contingent right and dispose of it to such person as it may direct. R.S.O. 1960, c. 237, s. 25 (2); 1964, c. 60, s. 12 (2).

Effect of order

(3) An order made under subsection 1 or 2 has the same effect as if the trustee or mortgagee had been sane and had executed a deed conveying the land for the estate named in the order, or releasing or disposing of the contingent right.

Conveyance

(4) Where an order may be made under this section, the court may, if it is more convenient, appoint a person to convey the land or release the contingent interest, and a conveyance or release by such person in conformity with the order has the same effect as an order under subsection 1 or 2. R.S.O. 1960, c. 237, s. 25 (3, 4).

Mentally incompetent trustee or mortgagee of chose in action

29.—(1) Where a mentally incompetent person is solely entitled to any stock or chose in action upon trust or by way of mortgage, the Supreme Court may by order vest in any person the right to transfer or to call for a transfer of the stock or to receive the dividends thereof, or vest in any person the chose in action, or any interest in respect thereof. R.S.O. 1960, c. 237, s. 26 (1); 1964, c. 60, s. 13 (1).

Jointly interested

(2) Where a person is jointly entitled with a mentally incompetent person to any stock or chose in action upon trust or by way of mortgage, the Supreme Court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or vesting the chose in action or any interest in respect thereof either in such person alone or jointly with any other person. R.S.O. 1960, c. 237, s. 26 (2); 1964, c. 60, s. 13 (2).

Mentally incompetent personal representative

(3) Where any stock is standing in the name of a deceased person whose personal representative is a mentally incompetent person or where a chose in action is vested in a mentally incompetent person as the personal representative of a deceased person, the Supreme Court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or vesting the chose in action or any interest in respect thereof in any person whom it may appoint. R.S.O. 1960, c. 237, s. 26 (3); 1964, c. 60, s. 13 (3).

Transfer

(4) Where an order may be made under this section, the court may, if it is more convenient, appoint some fit person to make or join in making the transfer. R.S.O. 1960, c. 237, s. 26 (4).

Execution of powers of attorney and transfers

30.—(1) The person in whom the right to transfer or to call for a transfer of any stock is vested may execute and do all powers of attorney, assurances and things to complete the transfer according to the order, and the transfer is valid and effectual to all

intents and purposes, and banks and other companies and their officers and all other persons are bound to obey every such order according to its terms.

(2) After notice in writing of an order under this Act, it is not lawful for a bank or other company to transfer stock to which the order relates or pay any dividends except in accordance with the order. R.S.O. 1960, c. 237, s. 27.

Bank or
company to
be bound
by order

31. This Act and every order purporting to be made under this Act is a full indemnity and discharge to any bank and other company and society and their respective officers and servants and all other persons for all acts and things done or permitted to be done pursuant thereto so far as relates to any property in which a mentally incompetent person is interested either in his own right or as trustee or mortgagee, and it is not necessary to inquire into the propriety of any order purporting to be made under this Act relating to any such property or the jurisdiction to make such order. R.S.O. 1960, c. 237, s. 28.

Order to be
complete
discharge

32. The fact that an order made under this Act for conveying or vesting land or releasing or disposing of a contingent right has been founded on an allegation of the mental incompetency of a trustee or mortgagee is conclusive evidence of the fact alleged in any court upon any question as to the validity of the order, but this section does not prevent the court from directing a reconveyance of any land or contingent right dealt with by the order, or from directing any party to any proceeding concerning such land or right to pay any costs occasioned by the order, where the order appears to have been improperly obtained. R.S.O. 1960, c. 237, s. 29.

Order to be
conclusive
evidence of
mental
incom-
petency

33. The powers conferred by this Act as to vesting orders may be exercised by vesting any land, stock or chose in action in the trustee or trustees of any charitable society or in any incorporated charitable body over which the court would have jurisdiction upon action duly instituted, whether the appointment of such trustee or trustees was made by instrument under a power or by the court under its general or statutory jurisdiction. R.S.O. 1960, c. 237, s. 30.

Order
vesting in
trustees of
charities

34. The court may make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under this Act is to be exercised. R.S.O. 1960, c. 237, s. 31.

Declarations
and direc-
tions by
court

35. Where the court has jurisdiction to order a conveyance or transfer of land or stock or to make a vesting order, an order may also be made appointing a new trustee or trustees. R.S.O. 1960, c. 237, s. 32.

Appointment
of new
trustee

MISCELLANEOUS

Money in
court

36. Where there is money in any court to the credit of a person who has been found or who is alleged to be a mentally incompetent person and the person is resident in Great Britain or Ireland or in any part of Canada other than Ontario, upon production of an order made by a court having jurisdiction where the person is resident authorizing any person to receive such money, the court may make an order for payment of such money to the person designated in the order to receive it. R.S.O. 1960, c. 237, s. 33; 1964, c. 60, s. 14.

Costs

37. The court may order the costs, charges, and expenses of and incidental to orders, issues, directions, conveyances, transfers, and all proceedings of whatever nature under this Act to be paid by any party to the application, issue or proceeding, or out of the estate of the mentally incompetent person or alleged mentally incompetent person, or partly in one way and partly in another. R.S.O. 1960, c. 237, s. 34.

Rules

38. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules for carrying this Act into effect and for regulating the costs in relation thereto, and except where inconsistent with this Act or such rules, *The Judicature Act* and the rules made thereunder apply to proceedings under this Act. R.S.O. 1960, c. 237, s. 35.

R.S.O. 1970,
c. 228

APPLICATION OF ACT TO PERSONS NOT MENTALLY
INCOMPETENT, BUT INCAPACITATED BY MENTAL
INFIRMITY

Extension
of Act

39.—(1) The provisions of this Act relating to management and administration apply to every person not declared to be mentally incompetent with regard to whom it is proved, to the satisfaction of the court, that he is, through mental infirmity, arising from disease, age or other cause, or by reason of habitual drunkenness or the use of drugs, incapable of managing his affairs.

Application
of section

(2) This section applies although the person is not a mentally incompetent person.

Powers of
committee,
how
exercised
and by
whom

(3) Such of the powers of this Act as are made exercisable by the committee of the estate under order of the court shall be exercised in the cases provided for by subsection 1 by such person, in such manner, and with or without security, as the court may direct, and any such order may confer upon the person therein named authority to do any specified act or exercise any specified power, or may confer a general authority to exercise on behalf of the person to whom the order relates until further order, all or any such powers without further application to the court.

(4) Every person appointed to do any such act or exercise any such power is subject to the jurisdiction and authority of the court as if such person were the committee of the estate of a mentally incompetent person so declared.

Liability of
person
appointed

(5) Section 14 applies to the cases provided for by subsection 1, and the person in respect of whom the order is made or any person aggrieved or affected by the order has the like right to appeal therefrom as is provided for by section 7.

Application
of s. 14

(6) Upon application at any time after the expiration of one year from the date of the order by which a person has been declared incapable of managing his affairs under subsection 1, or sooner by leave of the court, the like proceedings may be taken and the like order made as provided in section 11 in the case of a person who has been declared a mentally incompetent person.

Proceedings
on applica-
tion to
discharge
order

R.S.O. 1960, c. 237, s. 36.

CHAPTER 272

The Mercantile Law Amendment Act

1. In this Act, Interpretation

- (a) "bill of lading" includes all receipts for goods accompanied by an undertaking to transfer them from the place where they were received to some other place by any mode of carriage whatever, whether by land or water or partly by land and partly by water;
- (b) "goods" includes wares and merchandise;
- (c) "warehouse receipt" means a receipt given by any person for any goods in his actual, visible and continued possession as bailee thereof in good faith and not as of his own property, and includes,
 - (i) a receipt given by any person who is the owner or keeper of a harbour, cove, pond, wharf, yard, warehouse, shed, storehouse or other place for the storage of goods delivered to him as bailee, and actually in the place or in one or more of the places owned or kept by him whether such person is engaged in other business or not,
 - (ii) a receipt given by any person in charge of logs or timber in transit from timber limits or other land to the place of destination of such logs or timber,
 - (iii) a specification of timber,
 - (iv) a warehouse receipt as defined by *The Warehouse Receipts Act*. R.S.O. 1960, c. 238, s. 1.

R.S.O. 1970,
c. 489

2.—(1) Every person who, being surety for the debt or duty of another or being liable with another for any debt or duty, pays the debt or performs the duty is entitled to have assigned to him, or to a trustee for him, every judgment, specialty or other security that is held by the creditor in respect of the debt or duty, whether the judgment, specialty or other security is or is not deemed at law to have been satisfied by the payment of the debt or the performance of the duty.

Right of
sureties
paying the
principal
debt, etc.,
to assign-
ment

(2) Such person is entitled to stand in the place of the creditor, and to use all the remedies and, on proper indemnity, to use the name of the creditor in any action or other proceeding in order to obtain from the principal debtor, or any co-surety, co-contractor or co-debtor, indemnification for the advances made and loss sustained by such person, and the payment or performance made by him is not a defence to such action or other proceeding by him.

Remedies on
such assign-
ment

What one co-surety, etc., may recover from another

(3) No co-surety, co-contractor or co-debtor is entitled to recover from any other co-surety, co-contractor or co-debtor more than the just proportion to which, as between themselves, the last-mentioned person is justly liable. R.S.O. 1960, c. 238, s. 2.

Securities held on joint account

3.—(1) Where, in a mortgage or an obligation for payment of money, or a transfer of mortgage or of such obligation, made after the 1st day of July, 1886, the sum or any part of the sum advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account, or where a mortgage, or such an obligation, or such a transfer, is made to more persons than one, jointly and not in shares, the mortgage money, or other money or money's worth, for the time being due to such persons on the mortgage or obligation shall be deemed to be and remain money or money's worth belonging to those persons on a joint account, as between them and the mortgagor or obligor, and the receipt in writing of the survivors or last survivor of them, or of the personal representative of the last survivor, is a complete discharge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

Application of section

(2) This section applies only if and as far as a contrary intention is not expressed in the mortgage or obligation or transfer, and has effect subject to the terms thereof. R.S.O. 1960, c. 238, s. 3.

Joint contracts

4. In case any one or more joint contractors, obligors or partners die, the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners may proceed by action against the representatives of the deceased contractor, obligor or partner in the same manner as if the contract, obligation or promise had been joint and several, and this notwithstanding there may be another person liable under such contract, obligation or promise still living, and an action pending against such person, but the property and effects of shareholders in chartered banks or the members of other incorporated companies are not liable to a greater extent than they would have been if this section had not been passed. R.S.O. 1960, c. 238, s. 4

Effect of covenant with two or more jointly

5.—(1) A covenant, and a contract under seal, and a bond or obligation under seal, made with two or more jointly to pay money or to make a conveyance, or to do any other act to them or for their benefit, shall be deemed to include and shall by virtue of this Act imply an obligation to do the act to or for the benefit of the survivor or survivors of them, and to or for the benefit of any other person to whom the right to sue on the covenant, contract, bond or obligation devolves.

(2) This section extends to a covenant implied by *The Conveyancing and Law of Property Act*. Idem R.S.O. 1970, c. 85

(3) This section applies only if and as far as a contrary intention is not expressed in the covenant, contract, bond or obligation, and has effect subject to the covenant, contract, bond or obligation and to the provisions therein contained. Contrary intention R.S.O. 1960, c. 238, s. 5.

6.—(1) Any covenant, whether express or implied, or agreement entered into by a person with himself and one or more other persons shall be construed and be capable of being enforced in like manner as if the covenant or agreement had been entered into with the other person or persons alone. Covenants of a person and one or more persons enforceable

(2) This section applies to covenants or agreements heretofore or hereafter entered into and to covenants implied by statute in the case of a person who conveys or is expressed to convey to himself and one or more other persons, but without prejudice to any order of the court made before the 18th day of April, 1933. Application of section R.S.O. 1960, c. 238, s. 6.

7.—(1) Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon, or by reason of the consignment or endorsement, has and is vested with all rights of action, and is subject to the same liabilities in respect of the goods as if the contract contained in the bill of lading had been made with him. Bills of lading

(2) Nothing in this section prejudices or affects any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of his being the consignee or endorsee, or of his receipt of the goods by reason of or in consequence of the consignment or endorsement. Certain rights and liabilities not affected

(3) Every bill of lading in the hands of a consignee or endorsee for valuable consideration representing goods to have been shipped on board a vessel, train or conveyance of any kind is conclusive evidence of shipment as against the master or other person signing it, notwithstanding that the goods or some part thereof may not have been so shipped, unless the holder of the bill of lading has actual notice at the time of receiving it that the goods had not in fact been laden on board, or unless the bill of lading has a stipulation to the contrary, but the master or other person so signing may exonerate himself in respect to such misrepresentation by showing that it was caused without any default on his part, and wholly by the fraud of the shipper or of the holder, or of some person under whom the holder claims. Bills of lading as evidence against signer R.S.O. 1960, c. 238, s. 7.

Assignment
of warehouse
receipts, etc.,
as collateral
security
R.S.O. 1970,
c. 489

8.—(1) Subject to the provisions of *The Warehouse Receipts Act* as to the negotiation of, and the transfer of the goods covered by, a warehouse receipt as defined therein, the owner of or other person entitled to receive the goods included in a warehouse receipt or bill of lading may transfer the warehouse receipt or bill of lading by endorsement thereon signed by himself, his attorney or agent to any other person as collateral security for any debt owing by him.

What passes

(2) The endorsement or transfer vests in the transferee from the date thereof all the right or title of the transferor to or in the goods, subject to the right of the transferor to have the goods, warehouse receipt or bill of lading retransferred to him if the debt is paid when due. R.S.O. 1960, c. 238, s. 8 (1, 2).

Rights of
transferee

(3) If the debt is not paid when due, the person to whom the goods, warehouse receipt or bill of lading was so transferred may sell the goods and, after satisfying any lien against the goods, may retain the proceeds or so much thereof as is equal to the amount of the debt and shall return the surplus, if any, to the transferor. R.S.O. 1960, c. 238, s. 8 (3), *amended*.

Warehouse
receipt or bill
of lading
given by
owner who is
warehouse-
man

9. Where a person by whom a warehouse receipt or bill of lading might be given for goods in his capacity as a miller, or the owner or keeper of a harbour, cove, pond, wharf, yard, warehouse, shed, storehouse or other place for the storage of goods delivered to him as bailee, master of a vessel or carrier, is the owner of or entitled himself otherwise than in such capacity to receive the goods, any warehouse receipt or bill of lading, or any acknowledgment or certificate intended to answer the purpose thereof, given and endorsed by such person is as valid and effectual for the purposes of this Act as if the warehouse receipt, bill of lading, acknowledgment or certificate had been given by one person and endorsed by another. R.S.O. 1960, c. 238, s. 9.

As to goods
manufactured
from
articles
pledged

10. If goods are manufactured or produced from the goods or any of them included in or covered by any warehouse receipt, while so covered, the person holding the warehouse receipt shall hold or continue to hold the goods during the process and after the completion of the manufacture or production with the same right and title and for the same purposes and upon the same conditions as he held or could have held the original goods. R.S.O. 1960, c. 238, s. 10.

Limit of time
for holding
goods in
pledge

11.—(1) No goods, other than timber, boards, deals, staves, sawlogs or other lumber, shall be held in pledge for any period exceeding six months.

Idem

(2) No timber, boards, deals, staves, sawlogs or other lumber shall be held in pledge for any period exceeding twelve months.

(3) No transfer of a bill of lading or warehouse receipt shall be made under this Act to secure the payment of any debt unless the debt is contracted at the time of the acquisition of the bill of lading or warehouse receipt, or upon the written promise or agreement that the bill of lading or warehouse receipt would be given to such person. R.S.O. 1960, c. 238, s. 11.

When the debt may be incurred

12. All advances made on the security of a bill of lading or warehouse receipt give to the person making the advances a claim for the repayment of the advances on the goods therein mentioned, or into which they have been converted, prior to and by preference over the claim of any unpaid vendor or other creditor, save and except claims for wages for labour performed in making and transporting timber, boards, deals, staves, sawlogs or other lumber, but such preference is not given over the claim of an unpaid vendor who had a lien upon the goods at the time of the acquisition by such person of the bill of lading or warehouse receipt, unless the same was acquired by him without knowledge of such lien. R.S.O. 1960, c. 238, s. 12.

Prior claim of person making advance over unpaid vendor

13.—(1) In the event of the non-payment at maturity of any debt or liability secured by a bill of lading or warehouse receipt, the holder thereof may sell the goods mentioned therein or so much thereof as will suffice to pay the debt or liability with interest and expenses, returning the surplus, if any, to the person from whom the bill of lading or warehouse receipt, or the goods mentioned therein, as the case may be, were acquired, but such power of sale shall be exercised subject to subsections 2, 3 and 4.

Sale of goods on non-payment of debt

(2) No sale of any timber, boards, deals, staves, sawlogs or other lumber shall be made under this Act without the consent in writing of the owner until notice of the time and place of the sale has been given by registered letter to the last known address of the pledgor at least thirty days before the sale.

Notice of sale of timber, etc.

(3) No goods, other than timber, boards, deals, staves, sawlogs or other lumber, shall be sold under this section without the consent of the owner until notice of the time and place of sale has been given by a registered letter to the last known address of the pledgor thereof at least ten days before the sale.

Notice of sale of other goods

(4) Every sale under such power of sale without the consent of the owner shall be made by public auction after notice thereof by advertisement in at least two newspapers published in or nearest to the place where the sale is to be made, stating the time and place thereof. R.S.O. 1960, c. 238, s. 13.

Sale by auction

14.—(1) Every transportation receipt, warehouse receipt, accepted order and certificate for crude petroleum, issued by an incorporated company authorized to carry on the business of warehousing, is transferable by endorsement, either special or in

Transfer of warehouse receipts for crude petroleum issued by incorporated companies

blank, and upon being endorsed in blank becomes transferable by delivery, and every such endorsement or transfer by delivery transfers all right of property and possession of the petroleum mentioned in the transportation or warehouse receipt, accepted order or certificate, to the endorsee or transferee thereof, subject to the terms and conditions of the transportation or warehouse receipt, accepted order or certificate as fully and completely as if a sale of the petroleum mentioned therein had been made in the ordinary way.

Idem

(2) On the delivery of any petroleum mentioned in such document by such company in good faith to a person in possession of the transportation or warehouse receipt, accepted order or certificate so endorsed or transferred, the company is freed from all further liability in respect thereof, and the endorsee or transferee or holder of the transportation or warehouse receipt, accepted order or certificate to whom the property in the petroleum mentioned therein passes by reason of such endorsement or delivery has transferred to and vested in him all rights of action and is subject to the same liabilities in respect of such petroleum as if the contract contained in the transportation or warehouse receipt, accepted order or certificate had been made by the company with himself. R.S.O. 1960, c. 238, s. 14.

Construction of stipulations not of the essence of the contract 1881, c. 5

15. Stipulations in contracts as to time or otherwise that would not, before the coming into force of *The Ontario Judicature Act, 1881*, have been deemed to be or to have become of the essence of such contracts in a court of equity shall receive in all courts the same construction and effect as they would prior to the coming into force of that Act have received in equity. R.S.O. 1960, c. 238, s. 15.

Part performance

16. Part performance of an obligation either before or after a breach thereof when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose, though without any new consideration, shall be held to extinguish the obligation. R.S.O. 1960, c. 238, s. 16.

CHAPTER 273

The Milk Act

INTERPRETATION

1. In this Act,

Inter-
pretation

1. "agreement" means an agreement made under this Act or the regulations;
2. "award" means an award made by the Commission or by an arbitrator or board of arbitration under the regulations;
3. "cheese factory" means premises in which milk is processed into cheese;
4. "Commission" means The Milk Commission of Ontario;
5. "concentrated milk plant" means a plant in which milk or cream is processed into a milk product other than butter or cheese or a fluid milk product;
6. "creamery" means premises in which milk or cream is processed into creamery butter;
7. "cream receiving station" means premises at which cream is received for the purpose of being transported to a creamery;
8. "dairy" means premises in which milk is processed into fluid milk products;
9. "distributor" means a person engaged in selling or distributing fluid milk products directly or indirectly to consumers;
10. "field-man" means a field-man appointed for the purposes of this Act;
11. "fluid milk products" means the classes of milk and milk products processed from grade A milk and designated as fluid milk products in the regulations;
12. "grade A milk" means milk designated as grade A milk in the regulations;
13. "industrial milk" means milk designated as industrial milk in the regulations;

14. "licence" means a licence provided for under this Act or the regulations;
15. "marketing" means buying, selling and offering for sale, and includes advertising, assembling, storing, distributing, financing, packing and shipping and transporting in any manner by any person, and "market" and "marketed" have corresponding meanings;
16. "marketing board" means a board constituted under a plan;
17. "milk" means milk from cows;
18. "milk product" means any product processed or derived in whole or in part from milk, and includes cream, butter, cheese, cottage cheese, condensed milk, milk powder, dry milk, ice cream, ice cream mix, casein, malted milk, sherbet and such other products that are designated as milk products in the regulations;
19. "milk receiving station" means premises at which milk is received for the purpose of being transported to a cheese factory, concentrated milk plant, creamery or dairy;
20. "Minister" means the Minister of Agriculture and Food;
21. "plan" means a plan that is in force under this Act to provide for the control and regulation of the marketing of milk, cream or cheese, or any combination thereof;
22. "plant" means a cheese factory, concentrated milk plant, cream receiving station, creamery, dairy or milk receiving station;
23. "processing" means heating, pasteurizing, evaporating, drying, churning, freezing, separating into component parts, combining with other substances by any process or otherwise treating milk or cream in the manufacture or preparation of milk products or fluid milk products;
24. "processor" means a person engaged in the processing of milk products or fluid milk products;
25. "producer" means a producer of milk, cream or cheese;
26. "reconstituted milk" means milk designated as reconstituted milk in the regulations;
27. "regulated product" means milk, cream or cheese, or any combination thereof, in respect of which a plan is in force;
28. "regulations" means the regulations made under this Act;

29. "transporter" means a person transporting milk or cream. 1965, c. 72, s. 1, *amended*.

PURPOSE OF ACT

2. The purpose and intent of this Act is to provide for the control and regulation in any or all respects of, Purpose of Act

- (a) the marketing within Ontario of milk, cream or cheese, or any combination thereof, including the prohibition of such marketing in whole or in part; and
- (b) the quality of milk, milk products and fluid milk products within Ontario. 1965, c. 72, s. 2.

THE MILK COMMISSION OF ONTARIO

3.—(1) The Milk Commission of Ontario is continued as a body corporate responsible to the Minister. Milk Commission continued

(2) The Commission shall be composed of not fewer than three members who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council. Composition

(3) The Lieutenant Governor in Council may designate one of the members of the Commission as chairman and one as vice-chairman. Chairman, vice-chairman

(4) A majority of the members of the Commission constitutes a quorum whether or not a vacancy exists in the membership. Quorum

(5) Vacancies in the membership of the Commission caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council. Vacancies

(6) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. Remuneration and expenses

(7) The Lieutenant Governor in Council may appoint such officers, field-men and other employees as he considers necessary for the conduct of the affairs of the Commission. Staff

(8) No member of the Commission and no officer, field-man or other employee of the Commission is personally liable for anything done by him in good faith under or purporting to be under the authority of this Act or the regulations. 1965, c. 72, s. 3, *amended*. No personal liability

4.—(1) The Commission shall exercise such powers and perform such duties as are conferred or imposed upon it by or under this Act. Powers and duties

(2) Without limiting the generality of subsection 1, the Commission may, Idem

- (a) upon its own initiative or upon complaint, inquire into any matter relating to the production, processing or marketing of milk or milk products;
- (b) investigate, arbitrate, adjust or otherwise settle any dispute between persons engaged in producing, processing or marketing milk or milk products, or between any two classes of such persons;
- (c) investigate the cost of producing, processing and marketing any milk or milk product, prices, price spreads, trade practices, methods of financing, management policies and other matters relating to the producing, processing or marketing of milk and milk products;
- (d) require persons engaged in producing or marketing a regulated product to register their names, addresses and occupations with the Commission or marketing board;
- (e) require persons engaged in producing or marketing a regulated product to furnish such information relating to the production or marketing of the regulated product as the Commission or marketing board determines;
- (f) appoint persons to inspect the books, records, documents and premises of persons engaged in producing or marketing a regulated product;
- (g) stimulate, increase and improve the marketing of milk and milk products by such means as it considers proper;
- (h) co-operate with a marketing board or a marketing agency of Canada or of any province of Canada for the purpose of marketing any regulated product;
- (i) after a hearing, prohibit a person engaged in marketing a regulated product from terminating or varying, without just cause, the marketing of the regulated product;
- (j) authorize any officer or field-man to exercise such of its powers as it considers necessary and to report thereon to the Commission;
- (k) take such action and make such orders and issue such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations, any plan or any agreement or award. 1965, c. 72, s. 4 (1, 2), *amended*.

Order for
payment
of moneys
to
producers,
etc.

(3) The Commission may, upon any inquiry, investigation or arbitration under clause *a* or *b* of subsection 2, order the payment by any person engaged in producing, processing or marketing milk or milk products, to any other person engaged therein, of moneys, in an amount to be fixed by the Commission, that are payable to such other person by reason of a failure on the part of

the person to whom the order is directed to fulfil any obligation imposed upon him by or under this Act or any regulation, plan, award or agreement or by any order or direction of the Commission or a marketing board.

(4) The Commission may file a certified copy of any order made under subsection 3, exclusive of any reasons therefor, in the office of the Registrar of the Supreme Court, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1970, c. 95, s. 1.

Enforcement of order

(5) Upon any inquiry, arbitration or investigation under subsection 2, the Commission has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

Powers of inquiry, etc. R.S.O. 1970, c. 379

(6) The Commission may delegate to a marketing board such of its powers under subsection 2 as it considers necessary and may at any time terminate any such delegation.

Delegation of powers

(7) The Commission may make regulations,

Regulations with respect to filings, annual statements, etc.

(a) providing for the filing with the Commission by each marketing board of true copies of,

- (i) minutes of all meetings of the marketing board,
- (ii) all by-laws of the marketing board,
- (iii) all orders, directions and regulations of the marketing board,
- (iv) all reports of annual operations of the marketing board,
- (v) all annual financial statements and audited reports of the marketing board, and
- (vi) such further information, statements and reports as the Commission requires from the marketing board;

(b) providing for,

- (i) the furnishing to producers of a regulated product of copies of the annual statement of operations and the financial report of the marketing board, and
- (ii) the publication of the annual statement of operations and the financial report of each marketing board;

(c) providing for the manner in which and fixing the times at which, or within which, copies of minutes, orders, directions, regulations, reports and statements shall be filed with the Commission, furnished to producers or published, as the case may be, under clause a or b. 1965, c. 72, s. 4 (3-5), *amended*.

5. Every field-man may,

Powers of field-men

(a) enter any premises or conveyance used for the produc-

ing, processing or marketing of milk or milk products and inspect any equipment, milk or milk products found therein;

- (b) stop any conveyance that he believes may contain any milk or milk product and inspect the conveyance and any milk product found therein;
- (c) obtain a sample of any milk or milk product at the expense of the owner for the purpose of making an inspection thereof;
- (d) require the production or furnishing of copies of or extracts from any books, records or documents of persons engaged in the producing, processing or marketing of milk or milk products. 1965, c. 72, s. 5.

Petition
for a plan

6.—(1) Where the Commission receives from a group of producers in Ontario or any part thereof a petition or request that a plan be established for the control and regulation of the marketing of milk, cream or cheese, or any combination thereof, and the Commission is of the opinion that the group of producers is representative of the producers affected by the proposed plan, the Commission may recommend the establishment of such a plan to the Minister.

Request
for amend-
ment

(2) Where the Commission receives from a marketing board a request that amendment be made to the plan or to regulations under the plan under which the marketing board is constituted, the Commission may recommend such amendment to the Minister. 1965, c. 72, s. 6.

Regulations
with respect
to plans and
marketing
boards

7.—(1) Notwithstanding section 6, the Lieutenant Governor in Council may make regulations,

- (a) establishing, amending and revoking plans for control and regulation of the marketing within Ontario or any part thereof of milk, cream or cheese, or any combination thereof, and constituting marketing boards to administer such plans;
- (b) defining any word or words for the purposes of any plan;
- (c) giving to any marketing board any or all of the powers that are vested in a co-operative corporation incorporated under Part V of *The Corporations Act*, as amended or re-enacted from time to time, and providing that in the exercise of such powers the members of the marketing board shall be deemed to be the shareholders and the directors thereof;
- (d) prescribing by-laws for regulating the conduct of the affairs of the Commission;

R.S.O. 1970,
c. 89

- (e) prescribing by-laws for regulating the government of marketing boards and the conduct of their affairs, but any marketing board may make by-laws not inconsistent with this Act, with regulations made under this clause or with regulations made under the plan under which the marketing board is constituted, as amended from time to time;
- (f) notwithstanding any other Act, providing for,
 - (i) the carrying out by the Commission or a trustee of any or all of the powers of a marketing board,
 - (ii) the vesting of the assets of a marketing board in the Commission or a trustee, and
 - (iii) the disposing of any or all of the assets of a marketing board in such manner as is prescribed,
 and, where any regulation made under this clause is in conflict with any by-law of the marketing board, the regulation prevails;
- (g) dissolving a marketing board on such terms and conditions as he considers proper and providing for the disposition of its assets.

(2) A plan may apply to, 2014, c. 22, s. 10(1)

Application
of plans

- (a) all of Ontario or to any area within Ontario;
- (b) milk, cream or cheese, or any combination thereof; and
- (c) any or all persons engaged in producing, processing or marketing the product or products under clause *b* to which the plan applies.

(3) The method by which the members of any marketing board shall be appointed, elected or chosen and the application of the plan shall be set out in the plan under which the marketing board is constituted.

Method of
choosing, etc.,
members of
marketing
boards

(4) Every marketing board is a body corporate.

Marketing
boards are
bodies
corporate

(5) The acts of a member or an officer of a marketing board are valid notwithstanding any defects that may afterwards be discovered in his qualifications and his appointment, election or choosing.

Acts of
members
valid

(6) No member of a marketing board or any of its officers or employees is personally liable for anything done by it or by him in good faith under or purporting to be under the authority of this Act or the regulations. 1965, c. 72, s. 7.

No
personal
liability

8.—(1) The Commission may make regulations with respect to regulated products generally or to any regulated product, and,

Regulations
with respect
to regulated
products

without limiting the generality of the foregoing, may make regulations,

1. providing for the licensing of any or all persons before commencing or continuing to engage in the producing, processing or marketing of a regulated product;
2. prohibiting persons from engaging in the producing, processing or marketing of any regulated product, except under the authority of a licence;
3. providing for the refusal to issue a licence to commence to engage in the producing, processing or marketing of a regulated product where the applicant is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made, or for any other reason that the Commission considers proper;
4. providing for the suspension or revocation of, or the refusal to issue or renew, a licence to continue to engage in the producing, processing or marketing of a regulated product, for failure to observe, perform or carry out the provisions of this Act, the regulations, any plan or any order or direction of the Commission or marketing board;
5. providing for the fixing of licence fees payable yearly, half-yearly, quarterly or monthly at different amounts or in instalments from any or all persons producing or marketing a regulated product, and the collecting of the licence fees and the recovering of such licence fees by suit in any court of competent jurisdiction;
6. requiring any person who receives a regulated product from a producer to deduct from the moneys payable to the producer any licence fees payable by the producer to the marketing board and to pay such licence fees to the marketing board;
7. requiring any person who produces and processes a regulated product to furnish to the Commission or to the marketing board statements of the amounts of the regulated product that he produced in any year and used for processing;
8. prescribing the form of licences;
9. providing for the exemption from any or all of the regulations under any plan of any class, variety, grade or size of regulated product or of any person or class of persons engaged in the producing or marketing of the regulated product or any class, variety, grade or size of regulated product;

10. requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of a regulated product, and providing for the administration, forfeiture and disposition of any moneys or securities so furnished;
11. providing for,
 - i. the marketing of a regulated product on a quota basis,
 - ii. the fixing and allotting to persons of quotas for the marketing of a regulated product on such basis as the Commission considers proper,
 - iii. the refusing to fix and allot to any person a quota for the marketing of a regulated product for any reason that the Commission considers proper,
 - iv. the cancelling or reducing of, or the refusing to increase, a quota fixed and allotted to any person for the marketing of a regulated product for any reason that the Commission considers proper, and
 - v. the terms and conditions upon which a person may market a regulated product in excess of the quota fixed and allotted to him;
12. prohibiting,
 - i. any person to whom a quota has not been fixed and allotted for the marketing of a regulated product or whose quota has been cancelled from marketing any of the regulated product, and
 - ii. any person to whom a quota has been fixed and allotted for the marketing of a regulated product from marketing any of the regulated product in excess of such quota;
13. providing for the control and regulation of the marketing of any regulated product, including the times and places at which the regulated product may be marketed;
14. determining the quantity of each class, variety, grade or size of the regulated product that shall be marketed by each producer;
15. providing for the control and regulation of agreements entered into by producers of a regulated product with persons engaged in marketing or processing the regulated product, and the prohibition of any provision or clause in such agreements;
16. authorizing a marketing board to determine from time to time the price or prices that shall be paid for the regulated product or any class, variety, grade or size of

the regulated product, and to determine different prices for different parts of Ontario;

17. providing for the fixing, imposing and collecting of service charges from time to time for the marketing of the regulated product;
18. authorizing a marketing board to pay from service charges imposed under paragraph 17 its expenses in carrying out the purposes of the plan;
19. authorizing a marketing board to use any class of licence fees and other moneys payable to it for the purposes of paying the expenses of the marketing board, carrying out and enforcing this Act and the regulations and carrying out the purposes of the plan under which the marketing board is constituted;
20. authorizing a marketing board to establish a fund in connection with the plan for the payment of any moneys that may be required for the purposes mentioned in paragraph 19;
21. notwithstanding any other Act, providing that no marketing board shall make grants or other like payments of money to any person or association or body of persons without the approval of the Commission;
22. providing for the establishment, in connection with any plan, of advisory committees that may be empowered to advise and make recommendations to the marketing board or to any person or organization represented on the committee in respect of,
 - i. the promotion of harmonious relationships between persons engaged in the producing and marketing of the regulated product,
 - ii. the promotion of greater efficiency in the producing and marketing of the regulated product,
 - iii. the prevention and correction of irregularities and inequities in the marketing of the regulated product,
 - iv. the improvement of the quality and variety of the regulated product,
 - v. the improvement of the circulation of market information respecting the regulated product,
 - vi. without limiting the generality of any of the foregoing, any matter with respect to which the Commission or the marketing board may be empowered to make regulations under this Act;

23. determining the constitution of such advisory committees, and regulating the practice and procedure of such committees;
24. providing for the establishment, in connection with any plan, of negotiating agencies that may be empowered to adopt or settle by agreement,
 - i. the minimum prices for the regulated product or for any class, variety, grade or size of the regulated product,
 - ii. the terms, conditions and forms of agreements relating to the producing or marketing of the regulated product,
 - iii. any charges, costs or expenses relating to the producing or marketing of the regulated product;
25. providing for the establishment, in connection with any plan, of a conciliation board that may be empowered,
 - i. to endeavour to effect agreement on any matter referred to in paragraph 24 that a negotiating agency has failed to adopt or settle by agreement, and
 - ii. to recommend adoption of any agreement effected under subparagraph i to such negotiating agency;
26. providing for the arbitration by the Commission or by a board of arbitration of any matter not adopted or settled by agreement under paragraph 24;
27. providing for the arbitration by the Commission or by an arbitrator or by a board of arbitration of any dispute arising out of any agreement adopted or settled under paragraph 24 or any award made under paragraph 26;
28. determining the constitution of such negotiating agencies, conciliation boards and boards of arbitration, providing for the appointment of arbitrators, and regulating the practice and procedure of such agencies, boards and arbitrators;
29. requiring that no charges, costs or expenses relating to the producing or marketing of a regulated product shall be made, other than such charges, costs or expenses as are provided for in the agreement or award or renegotiated agreement or award in force for the marketing of the regulated product;
30. prescribing the form of agreements filed with the Commission;
31. providing that the regulated product shall be marketed by, from or through the marketing board, and prohibit-

- ing any person from marketing any of the regulated product except by, from or through the marketing board;
32. authorizing any marketing board to prohibit the marketing of any class, variety, grade or size of any regulated product;
 33. requiring any person who produces a regulated product to offer to sell and to sell the regulated product to or through the marketing board constituted to administer the plan under which the regulated product is regulated;
 34. prohibiting any person from processing, packing or packaging any of the regulated product that has not been sold to, by or through the marketing board constituted to administer the plan established for the control and regulation of the marketing of the regulated product;
 35. authorizing any marketing board to require the price or prices of the regulated product to be paid to or through the marketing board, and to recover such price or prices by suit in a court of competent jurisdiction;
 36. authorizing a marketing board to purchase or otherwise acquire such quantity or quantities of the regulated product as the marketing board considers advisable and to sell or otherwise dispose of such quantity or quantities of the regulated product so purchased or otherwise acquired;
 37. authorizing any marketing board to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product, and requiring such marketing board, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, class, variety, grade and size of the regulated product delivered by him, and authorizing such marketing board to make an initial payment on delivery of the regulated product and subsequent payments until all the remainder of the moneys received from the sale is distributed to the producers;
 38. providing for statements to be given by any marketing board to producers showing the class, variety, grade or size and the quantity of the regulated product marketed, the price or prices paid and the particulars of the service charges imposed by the marketing board;

39. designating as a milk product any product processed or derived in whole or in part from milk;
40. providing for the carrying out of any plan declared by the Lieutenant Governor in Council to be in force;
41. providing for the holding of a plebiscite of producers upon a question of favour of a plan or amendment of a plan or any matter respecting the marketing of a regulated product;
42. providing for the holding of public hearings on matters respecting the operation of any plan or the holding of a plebiscite of producers;
43. authorizing any marketing board to appoint agents, to prescribe their duties and terms and conditions of employment, and to fix their remuneration and provide for the payment thereof;
44. providing for the making of agreements relating to the marketing of any regulated product by or through a marketing board, and prescribing the forms and the terms and conditions of such agreements;
45. providing for the making of such orders and the issuing of such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations, any plan or any order or direction of the Commission or of a marketing board.

(2) Every agreement made under paragraph 24 of subsection 1 and every award made under paragraph 26 or 27 of subsection 1, and every agreement or award renegotiated under clause *b* of this subsection, Agreements and awards

- (a) shall be filed with the Commission forthwith after the making thereof, and the Commission may, notwithstanding any defect in the establishment of the negotiating agency or of the board of arbitration, as the case may be, by order declare the agreement or award, or renegotiated agreement or award, or part thereof, to come into force on the day it is so filed or on such later date as is named in the agreement or award or renegotiated agreement or award, as the case may be, and, subject to clause *b*, to remain in force for one year or for such period as is provided in the agreement or award or renegotiated agreement or award; and
- (b) may at any time upon an order of the Commission be renegotiated in whole or in part in such manner as the Commission determines.

R.S.O. 1970,
c. 410, not
to apply

(3) *The Regulations Act* does not apply to any order of the Commission made under subsection 2.

Limited
effect

(4) Any regulation made under this section may be limited as to time and place.

Form of
agreement

(5) An agreement filed with the Commission under subsection 2 shall be in the form prescribed in the regulations, and the Commission may refuse to file an agreement that is not in such form.

Delegation
of powers to
marketing
boards

(6) The Commission may delegate to a marketing board such of its powers under subsection 1 as it considers necessary, and may at any time terminate any such delegation. 1965, c. 72, s. 8 (1-6).

Authority
of marketing
board
to make
regulations

(7) Where the Commission authorizes a marketing board to exercise any of the powers mentioned in subsection 1, the marketing board, in the exercise of such powers, may make regulations or orders or issue directions. 1968-69, c. 67, s. 1.

Limitations
on powers,
etc., of
marketing
boards

(8) Where the Commission delegates to a marketing board any of its powers to promote, control and regulate the marketing of a regulated product, the Commission may at any time,

- (a) limit the powers of the marketing board in any or all respects; and
- (b) revoke any regulation, order or direction of the marketing board made or purporting to be made under such powers.

Other
powers of
Commission
with respect
to market-
ing boards

(9) The Commission may require any marketing board,

- (a) to furnish to the Commission particulars of any proposed change in the purposes of the plan at least ten days before the proposed change becomes effective;
- (b) to carry out any purpose of the plan that the Commission considers necessary or advisable;
- (c) to vary any purpose of the plan as the Commission considers necessary or advisable; and
- (d) to cease or desist from the carrying out of any purpose or proposed purpose of the plan that the Commission considers unnecessary or inadvisable. 1965, c. 72, s. 8 (7, 8).

Production
of books,
etc., to
Commission

9.—(1) Every person, when requested so to do by an officer or field-man of the Commission or a person appointed by the Commission to inspect the books, records, documents, equipment and premises of persons engaged in the producing, processing or marketing of milk or milk products, shall, in respect of milk and milk products, produce such books, records and documents and permit inspection thereof and supply extracts therefrom and permit inspection of such equipment and premises.

(2) No person shall hinder or obstruct an officer or field-man of the Commission or a person appointed by the Commission to inspect the books, records, documents, equipment and premises of persons engaged in the producing, processing or marketing of milk or milk products in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information.

Obstruction
of officers of
Commission

(3) The production by any person of a certificate of appointment by the Commission to inspect the books, records, documents, equipment and premises of persons engaged in the producing, processing or marketing of milk or milk products, purporting to be signed by the chairman and secretary of the Commission, shall be accepted by any person engaged in the producing, processing or marketing of milk or milk products as proof of such appointment. 1965, c. 72, s. 9.

Certificate
of appoint-
ment by
Commission

10.—(1) Every person, when requested so to do by an officer of a marketing board or a person appointed by a marketing board to inspect the books, records, documents and premises of persons engaged in producing or marketing a regulated product, shall, in respect of the regulated product, produce such books, records and documents and permit inspection thereof and supply extracts therefrom and permit inspection of such premises.

Production
of books,
etc., to
marketing
board

(2) No person shall hinder or obstruct an officer of a marketing board or a person appointed by a marketing board to inspect the books, records, documents and premises of persons engaged in producing or marketing a regulated product in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information.

Obstruction
of officers of
marketing
board

(3) The production by any person of a certificate of appointment by a marketing board to inspect the books, records, documents and premises of persons engaged in producing or marketing a regulated product, purporting to be signed by the chairman and secretary of the marketing board, shall be accepted by any person engaged in the producing or marketing of the regulated product as proof of such appointment. 1965, c. 72, s. 10.

Certificate
of appoint-
ment by
marketing
board

11.—(1) Any person who is a producer and distributor is entitled in his respective capacities as a producer and as a distributor to all the rights and privileges and is subject to all the duties and obligations of a producer and of a distributor.

Producer-
distributors

(2) Any person who is a producer and distributor shall be deemed to have received in his capacity as a distributor from himself in his capacity as a producer the milk produced by him that he distributes and to have contracted in that capacity with

Idem

himself in his capacity as a producer for the marketing thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply. 1965, c. 72, s. 11.

Producer-processors

12.—(1) Any person who is a producer and processor is entitled in his respective capacities as a producer and as a processor to all the rights and privileges and is subject to all the duties and obligations of a producer and of a processor.

Idem

(2) Any person who is a producer and a processor shall be deemed to have received in his capacity as a processor from himself in his capacity as a producer the milk produced by him that he processes and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply. 1965, c. 72, s. 12.

CONSTRUCTION AND OPERATION OF PLANTS

Permit to construct plant

13.—(1) No person shall construct or alter any building intended for use as a plant without a permit from the Commission.

Permit to alter plant

(2) No person shall alter a plant without a permit from the Commission.

Conditions precedent to issue of permit

(3) No permit shall be issued by the Commission unless,

(a) in the opinion of the Commission, the plant is necessary and desirable, having regard to the needs of the producers in the locality in which it is proposed to locate the plant and to the facilities of the existing plants in operation; and

(b) the proposed plant complies with the regulations. 1965, c. 72, s. 13.

Licence to operate plant

14.—(1) No person shall operate a plant without a licence therefor from the Commission.

Licence to operate as distributor

(2) No person shall carry on business as a distributor without a licence therefor from the Commission. 1965, c. 72, s. 14.

Shade of butter

15.—(1) Except as provided in the regulations, no person shall process, sell, offer for sale or have in possession for sale butter that has a tint or shade containing less than one and six-tenths degrees or more than ten and one-half degrees of yellow, or of yellow and red collectively, measured in terms of the Lovibond tintometer scale or the equivalent of such measurement.

(2) Except as provided in the regulations, no person shall process, sell, offer for sale or have in possession for sale reconstituted milk. 1965, c. 72, s. 15. Reconstituted milk

16. All milk and cream received at a plant shall be paid for on the basis of its milk-fat content or on such other basis as is prescribed in the regulations. 1965, c. 72, s. 16. Basis of payment for milk and cream

17.—(1) Where, upon the application of a co-operative corporation to which Part V of *The Corporations Act* applies and of which one of the objects is to engage in the transportation of milk, the Commission is satisfied that more than three-quarters of the shareholders or members of the corporation are producers supplying milk to one or more plants, the Commission shall issue a certificate to that effect to the Minister of Transport, and the corporation in respect of which the certificate is issued is not required to have an operating licence under *The Public Commercial Vehicles Act* for the purpose of transporting the milk of such producers. Transportation of milk by producers' co-operative
R.S.O. 1970, c. 89

R.S.O. 1970, c. 375

(2) The Commission may, after a hearing, revoke a certificate where the corporation ceases to meet the qualifications required by subsection 1, and shall give notice of the revocation to the Minister of Transport. 1967, c. 53, s. 1. Revocation of certificates

18. Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations, Regulations with respect to the operation of plants

1. providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences for the operation of any class of plant, and prescribing the fees payable for licences or the renewal thereof;
2. providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences for any class of distributor, and prescribing the fees payable for licences or the renewal thereof;
3. prescribing the terms and conditions upon which licences under paragraphs 1 and 2 are issued, renewed, suspended or revoked;
4. requiring the furnishing of security or proof of financial responsibility by any class of distributor or by any person engaged in the operation of any class of plant;
5. providing for the administration, forfeiture and disposition by the Commission of bonds or any moneys recovered under any such bonds or any moneys or securities furnished as proof of financial responsibility by a distributor or by an operator of a plant;

6. providing for the submission of drawings and specifications for the construction or alteration of a building intended for use as a plant or for the alteration of a plant;
7. prescribing the methods of construction or alteration of a building intended for use as a plant and the materials that shall be used for such construction or alteration;
8. prescribing the location of plants, the equipment that shall be used in connection with plants and the sanitary requirements for plants;
9. providing for the issue of permits for the construction or alteration of a building intended for use as a plant and for the alteration of a plant, and prescribing the terms and conditions therefor;
10. respecting the health of cows;
11. respecting sanitary conditions of cows, premises on which cows are kept or milked and the equipment used in connection with the producing, handling, storing or transporting of milk or cream, or any class thereof;
12. respecting the premises and equipment used in connection with the producing, handling, storing, testing or transporting of milk or cream, or any class thereof;
13. prohibiting the delivering, selling or offering for sale to a plant or the receiving at a plant of milk or cream, or any class thereof, that is not produced, handled, stored, collected, delivered, supplied, received or transported in accordance with the regulations or that has been rejected in accordance with the regulations;
14. prescribing conditions for the delivering, supplying, selling or offering for sale to a plant or the receiving at a plant of milk or cream, or any class thereof, that has been graded at or on behalf of another plant in accordance with the regulations;
15. providing for the addition of a food colouring to milk or cream, or any class thereof, that has been delivered or offered for sale to a plant and rejected in accordance with the regulations;
16. governing the collection, transportation, delivery, handling, storing, supplying or receiving of milk or cream, or any class thereof, and prescribing the time therefor;
17. providing for the identification, labelling and use of containers used for transporting milk or cream, or any class thereof;

18. providing for the cleaning and sanitation of vehicles used in transporting, collecting, delivering, supplying or receiving milk or cream, or any class thereof, and prescribing methods therefor;
19. respecting the quality of milk or cream, or any class thereof, delivered, supplied, sold or offered for sale to a plant or received at a plant;
20. providing for the pasteurizing of milk or cream used for the manufacture of a milk product;
21. establishing classes of milk, cream, milk products or fluid milk products;
22. establishing grades for milk or cream, or any class thereof;
23. providing for the selecting, grading, rejecting, weighing, sampling and testing of milk or cream, or any class thereof, sold or offered for sale;
24. providing for the fees payable for the selecting, grading, rejecting, weighing, sampling or testing of milk or cream, or any class thereof;
25. prescribing the tests, procedures to be followed and equipment to be used in testing the composition and quality of milk or cream or any milk product;
26. providing for the taking of samples of milk or cream or any milk product at the expense of the owner for the purpose of testing and for the identification and labelling of containers used therefor;
27. providing for the approval of laboratories for the purpose of testing milk, cream and milk products;
28. providing for the settlement of disputes in connection with the selecting, grading, rejecting, weighing, sampling and testing of milk or cream and the payment for the milk or cream;
29. establishing classes of buttermakers, cheesemakers, milk and cream testers and milk and cream graders;
30. providing for the examination and re-examination of persons applying for certificates for any class of butter-maker, cheesemaker, milk and cream tester or milk and cream grader;
31. prescribing the qualifications for persons to whom certificates may be issued;
32. providing for the issue, renewal, suspension or revocation of or refusal to issue or renew certificates, and

- prescribing the fees payable for certificates or the renewal thereof;
33. prescribing the terms and conditions upon which certificates are issued, renewed, suspended or revoked;
 34. prescribing the basis, terms and manner of payment for milk or cream, or any class thereof, purchased from producers;
 35. providing for the establishment and the manner of payment of price differentials for any grade of milk or cream, or any class thereof;
 36. providing for the establishment and the manner of payment of price differentials for milk-fat in milk or any class thereof;
 37. designating classes of producers;
 38. designating classes of distributors and transporters;
 39. defining areas, and designating them as distribution areas;
 40. providing for the designation on licences, issued to distributors, of the distribution area or municipality or part thereof in which the distributor may deliver, sell or distribute fluid milk products;
 41. prohibiting a distributor from delivering, selling or distributing fluid milk products in any distribution area or municipality or part thereof other than the distribution area, municipality or part thereof designated on his licence;
 42. designating as a milk product any product processed or derived in whole or in part from milk;
 43. governing the methods of and the equipment used in processing milk or cream, or any class thereof, or in manufacturing any milk product;
 44. providing for the standards of quality for and the composition of any milk product;
 45. defining and designating classes of milk and milk products as fluid milk products;
 46. providing for the minimum and maximum percentages of milk-fat, and the minimum percentage of milk solids, other than milk-fat, in any fluid milk product;
 47. regulating and prohibiting the addition to or removal from fluid milk products of any substance, and regulating and prohibiting the sale of fluid milk products, or

any class thereof, to which the substance has been added or from which the substance has been removed;

48. prescribing the types and sizes of containers that shall be used for fluid milk products;
49. respecting the advertising in respect of and the labelling of containers for fluid milk products, or any class of fluid milk products;
50. regulating retail or wholesale deliveries of fluid milk products, or any class of fluid milk products, by distributors;
51. prohibiting retail or wholesale deliveries of fluid milk products, or any class of fluid milk products, by distributors on any day or days;
52. establishing classes of reconstituted milk, providing for the issue, suspension and revocation of permits for the manufacture and sale of any class of reconstituted milk, and prescribing the fees payable for such permits and the records and returns to be made by the holders of such permits;
53. prescribing the standards of quality for and the composition of any class of reconstituted milk;
54. governing the advertising and the labelling of containers for any class of reconstituted milk;
55. prescribing the books, records and documents to be kept by distributors and operators of plants and the period for which such books, records and documents shall be kept, and providing for the inspection of such books, records and documents;
56. providing for the issue to producers of statements by distributors and operators of plants;
57. providing for sanitary standards and requirements for buildings and premises in which milk products, or any class thereof, are manufactured, stored, graded or packed;
58. prohibiting the buying or selling of and the trafficking in milk or cream, or any class thereof, by transporters;
59. requiring producers, transporters, processors and distributors to furnish to the Commission such information or returns as the Commission determines;
60. providing for the detention and disposal of any milk, cream, milk product, fluid milk product or reconstituted

milk produced, processed or marketed in violation of this Act or the regulations;

61. establishing classes of field-men, and prescribing the powers and duties of field-men or any class thereof;
62. prescribing forms and providing for their use;
63. exempting from this Act or the regulations, or any part thereof, any plant or class of plants, any person or class of persons, or any milk product or any class, variety or grade of milk product;
64. designating milk as grade A milk, industrial milk or reconstituted milk;
65. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1965, c. 72, s. 18.

MUNICIPAL BY-LAWS

Inter-
pre-
ta-
tion

19.—(1) In this section,

- (a) “municipality” means a city, town, village, township or improvement district;
- (b) “vendor” means a person who sells fluid milk products to a consumer or a person who sells fluid milk products to any person for resale.

Licensing
by-laws, etc.

(2) The council of any municipality may pass by-laws for licensing, regulating and governing vendors, and for revoking such licences.

Where
licence
required

(3) No person shall be a vendor in a municipality in which any such by-law is in force without a licence therefor under this section.

Scope of
by-laws

(4) Notwithstanding the provisions of this or any other Act, no council of a municipality shall by by-law require that fluid milk products sold in the municipality be produced or processed in the municipality or in any other designated area.

By-laws
prescribing
hours of
delivery

(5) The council of any municipality may pass by-laws prescribing the hours during which fluid milk products may be delivered within such municipality by vendors.

Municipal
inspectors

(6) The council of any municipality may by by-law appoint inspectors for the enforcement of this section and of any by-law passed under this section. 1965, c. 72, s. 19.

GENERAL

Offences

20. Every person who contravenes any of the provisions of this Act or the regulations, or of any plan, or of any order or

direction of the Commission or any marketing board, or of any agreement or award or renegotiated agreement or award filed with the Commission, or of any by-law under this Act, is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not more than \$50 and, for a subsequent offence, to a fine of not less than \$50 and not more than \$500. 1965, c. 72, s. 20.

21. Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations or any plan, order, direction, agreement, award or renegotiated agreement or award made under this Act has been or is being committed, the Supreme Court or a judge thereof may, upon the application of the Commission, enjoin any transporter, processor, distributor or operator of a plant from carrying on business as a transporter, processor, distributor or operator of a plant, absolutely or for such period as seems just, and any injunction cancels the licence of the transporter, processor, distributor or operator of a plant named in the order for the same period. 1965, c. 72, s. 21.

Injunction
proceedings

22.—(1) Every person who fails to pay at least the minimum price established for a regulated product or for milk or cream in an agreement or award filed with the Commission or the price of a regulated product determined by a marketing board is, in addition to the fine provided for in section 20, liable to a penalty of an amount equal to the amount of such minimum or determined price, less any amount paid by such person as payment in full or in part for such regulated product, milk or cream, and less any amount paid by such person for such regulated product, milk or cream pursuant to an order of the Commission under subsection 3 of section 4. 1970, c. 95, s. 2.

Additional
penalty
for failure
to pay
minimum
price

(2) Every penalty imposed under subsection 1 shall be paid to the marketing board or to the Commission, and the marketing board or the Commission, as the case may be, shall,

Disposition
of addi-
tional
penalty

- (a) pay the money to the person who failed to receive at least the minimum price; or
- (b) use the money to stimulate, increase and improve the marketing of the regulated product or of milk or cream. 1965, c. 72, s. 22 (2).

23. Where, in any action or prosecution under this Act, production of any agreement, award, order, regulation, direction, rule, resolution, determination or minute of the Commission or a marketing board is required, any document purporting to be a copy of such agreement, award, order, regulation, direction, rule, resolution, determination or minute, certified to be a true copy

Certified
copies
admissible
in evidence

thereof by the chairman or secretary of the Commission or the marketing board, as the case may be, is admissible in evidence as proof of the making and of the text thereof without production of the original document and without proof of the signature of the person purporting to have certified it. 1965, c. 72, s. 23.

Rebuttable
presumption

24. In any prosecution for an offence under this Act, the act or omission of an act, in respect of which the prosecution was instituted, shall be deemed to relate to the marketing within Ontario of milk, cream or cheese, or any combination thereof, unless the contrary is proven. 1965, c. 72, s. 24.

Definitions
in
regulations

25.—(1) Any word or expression used in the Act or the regulations may be defined in the regulations for the purpose of the regulations.

Regulations
may be
limited

(2) Any regulation may be limited as to time or place, or to both. 1965, c. 72, s. 25.

APPEALS

Appeal to
marketing
board

26.—(1) Where any person considers himself aggrieved by any order, direction or decision of a marketing board, he may appeal to the marketing board by serving upon the marketing board written notice of the appeal.

Appeal to
Commission

(2) Where any person considers himself aggrieved by,

- (a)** any decision of a marketing board on an appeal under subsection 1; or
- (b)** any order, direction or regulation made by the Commission,

he may appeal to the Commission by serving upon the Commission written notice of the appeal.

Notice
of appeal

(3) Every notice under subsection 1 or 2 shall contain a statement of the matter being appealed and the name and address of the person making the appeal.

Marketing
board to
provide
material

(4) Upon receipt of a notice under clause *a* of subsection 2, the Commission shall forthwith notify the marketing board, and the marketing board shall thereupon forthwith provide the Commission with all relevant by-laws, orders, directions, regulations, documents and other material, of any kind whatsoever, in its possession.

Notice
of hearing

(5) In any appeal under subsection 1 or 2, the Commission or the marketing board, as the case may be, shall, within seven days after the notice referred to in subsection 1 or 2 is received, serve notice upon the person making the appeal of the date, time and place at which the appeal will be heard.

(6) The Commission or the marketing board, as the case may be, shall hear and decide any appeal under subsection 1 or 2 within thirty days after the notice of appeal is received, but the Commission or the marketing board may, at the request of the person making the appeal, adjourn the hearing from time to time for such period or periods of time as the Commission or the marketing board considers just. Hearing

(7) At any hearing under this section, the person making the appeal has the right to attend and make representations and to adduce evidence respecting the appeal either by himself or through counsel. Right to be heard

(8) At any hearing of an appeal under clause *a* of subsection 2, the marketing board has the right to attend and make representations and to adduce evidence respecting the appeal either by its officers, or any of them, or through counsel. Idem

(9) Upon an appeal to the Commission under clause *a* of subsection 2, the Commission may, by order, direct the marketing board to take such action as the marketing board is authorized to take under this Act and as the Commission considers proper, and for this purpose the Commission may substitute its opinion for that of the marketing board. Disposition of appeal

(10) The Commission or the marketing board, as the case may be, shall, within ten days after the hearing is completed, serve notice upon the person making the appeal of its decision. Notice of decision

(11) A proceeding that is in substantial compliance with this section is not open to objection on the ground that it is not in strict compliance therewith. Substantial compliance

(12) Where a notice is served under this section, it may be served personally or, Service of notice

- (a) where the notice is served on the Commission or a marketing board, by mailing the notice to the address of the Commission or marketing board, as the case may be, at its usual business address; or
- (b) where the notice is served on a person making an appeal, by mailing the notice to the address shown in his notice of appeal.

(13) After the Commission or a marketing board has decided an appeal under this section, the Commission or marketing board may reopen the hearing on its own motion and make a new decision, and the procedure for an appeal under this section applies to the rehearing. 1965, c. 72, s. 26. Rehearing

MISCELLANEOUS

27. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1965, c. 72, s. 28, *amended*. Moneys

CHAPTER 274

The Mining Act

1. In this Act, Interpre-
tation
1. "agent", when used in Parts IX and XI, means a person having, on behalf of the owner, the care or direction of a mine or plant or a part thereof; R.S.O. 1960, c. 241, s. 1, par. 1; 1970, c. 79, s. 1 (1), *amended*.
 2. "Commissioner" means the Mining Commissioner under this Act; R.S.O. 1960, c. 241, s. 1, par. 2.
 3. "Crown" means Crown in right of Ontario; 1962-63, c. 84, s. 1 (1).
 4. "Crown land" does not include land in the actual use or occupation of the Crown, or of a public department of the Government of Canada or of Ontario, or of an officer or servant thereof, or under lease or licence of occupation from the Crown or the Minister of Lands and Forests or the Minister of Mines, or set apart or appropriated by lawful authority for a public purpose or vested in The Ontario Northland Transportation Commission; R.S.O. 1960, c. 241, s. 1 (3).
 5. "Department" means the Department of Mines and Northern Affairs;
 6. "Deputy Minister" means the Deputy Minister of Mines and Northern Affairs;
 7. "Director" means the Director of the Mining Lands Branch of the Department; 1970, c. 26, s. 1 (1).
 8. "holder", when referring to the holder of an unpatented mining claim, a boring permit, a quarry permit or a licence of occupation issued under this Act, means the holder of record;
 9. "in place", when used in reference to mineral, means in the place or position where originally formed in the solid rock, as distinguished from being in loose, fragmentary or broken rock, boulders, float, beds or deposits of gold or platinum-bearing sand, earth, clay, or gravel, or placer; R.S.O. 1960, c. 241, s. 1, pars. 6, 7.
 10. "inspector" includes "engineer" as defined in clause *b* of subsection 1 of section 169, a geologist on the staff of the

Department and any other officer or agent designated by the Minister to carry out an inspection or investigation relating to the mining industry; R.S.O. 1960, c. 241, s. 1, par. 8; 1962-63, c. 84, s. 1 (2), *amended*.

11. "lease" means a leasehold patent; 1967, c. 54, s. 1 (1).
12. "licensee" means a person, mining partnership or company holding a miner's licence issued under this Act or a renewal thereof; R.S.O. 1960, c. 241, s. 1, par. 9.
13. "machinery" includes steam and other engines, boilers, compressors, furnaces, milling and crushing apparatus, hoisting and pumping equipment, chains, trucks, tramways, tackle, blocks, ropes and tools, and all appliances used in or about or in connection with a mine or plant; R.S.O. 1960, c. 241, s. 1, par. 10; 1970, c. 79, s. 1 (2).
14. "metal tag" means the metal tag supplied by the mining recorder or a substitute therefor supplied by the Department; R.S.O. 1960, c. 241, s. 1, par. 11.
15. the noun "mine", except as defined in Part IX, includes any opening or excavation in, or working of the ground for the purpose of winning, opening up or proving any mineral or mineral-bearing substance, and any ore body, mineral deposit, stratum, rock, earth, clay, sand or gravel, or place where mining is or may be carried on, and all ways, works, machinery, plant, buildings and premises below or above ground belonging to or used in connection with the mine, and also any quarry, excavation or opening of the ground made for the purpose of searching for or removal of mineral rock, stratum, earth, clay, sand or gravel and any roasting or smelting furnace, concentrator, mill, work or place used for or in connection with washing, crushing, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any of such substances;
16. the verb "mine" and the word "mining", except as defined in Part IX, include any mode or method of working whereby the earth or any rock, stratum, stone or mineral-bearing substance may be disturbed, removed, washed, sifted, leached, roasted, smelted, refined, crushed or dealt with for the purpose of obtaining any mineral therefrom, whether it has been previously disturbed or not; 1970, c. 79, s. 1 (3).
17. "minerals" includes gold and silver, all rare and precious metals and coal, natural gas, oil and salt;
18. "mining lands" includes the lands and mining rights patented or leased under or by authority of a statute,

regulation, or order in council, respecting mines, minerals or mining, and also lands or mining rights located, staked out, used or intended to be used for mining purposes;

19. "mining rights" means the ores, mines and minerals on or under any land where they are or have been dealt with separately from the surface; R.S.O. 1960, c. 241, s. 1, pars. 14-16.
20. "Minister" means the Minister of Mines and Northern Affairs; 1970, c. 26, s. 1 (2).
21. "owner", when used in Parts IX and XI, includes every person, mining partnership and company being the immediate proprietor or lessee or occupier of a mine or plant, or a part thereof, or of any land located, patented or leased as mining land, but does not include a person or a mining partnership or company receiving merely a royalty, rent or fine from a mine, plant or mining lands, or being merely the proprietor of a mine, plant or mining lands subject to a lease, grant or other authority for the working thereof, or the owner of the surface rights and not of the ore or minerals; R.S.O. 1960, c. 241, s. 1, par. 18; 1970, c. 79, s. 1 (4).
22. "patent" means a grant from the Crown in fee simple or for a less estate made under the Great Seal, and includes leasehold patents and freehold patents, but in sections 7, 35, 71, 85, 105, 106, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 637, 638, 646, 650, 653 and 660 the meaning is limited to freehold patents; 1967, c. 54, s. 1 (2).
23. "prescribed" means prescribed by or under the authority of this Act;
24. "recorder" means the mining recorder of the mining division in which is situate the land in respect of which an act, matter or thing is to be done;
25. "regulations" means the regulations made under this Act; R.S.O. 1960, c. 241, s. 1, pars. 20-22.
26. "Supervisor" means the Supervisor of the section of the Mining Lands Branch that includes the mining recorders; 1968, c. 71, s. 1, *part*.
27. "surface rights" means every right in land other than the mining rights; R.S.O. 1960, c. 241, s. 1, par. 23.
28. "unpatented", when referring to land or mining rights, means land or mining rights for which a patent, lease, licence of occupation or any other form of Crown grant is not in effect;

29. "unpatented mining claim" means a mining claim that is in good standing and for which the Crown has not issued a patent, lease or licence of occupation; 1967, c. 54, s. 1 (3).

30. "valuable mineral in place" means a vein, lode or deposit of mineral in place appearing at the time of discovery to be of such a nature and containing in the part thereof then exposed such kind and quantity of mineral or minerals in place, other than limestone, marble, clay, marl, peat or building stone, as to make it probable that the vein, lode or deposit is capable of being developed into a producing mine likely to be workable at a profit. R.S.O. 1960, c. 241, s. 1, par. 24.

Application
to sales, etc.
for other
purposes
R.S.O. 1970,
c. 380

2. Nothing in this Act affects the sale, lease or location, for agricultural or other purposes, of any land opened for sale or free grant under *The Public Lands Act* or otherwise. R.S.O. 1960, c. 241, s. 2 (1).

Forms

3. The Lieutenant Governor in Council may make regulations prescribing forms and providing for their use. R.S.O. 1960, c. 241, s. 3.

PART I

ADMINISTRATION

Department
continued

4. The Department of Mines and Northern Affairs is continued. 1970, c. 26, s. 2 (1), *amended*.

Adminis-
tration of
Acts

5. The Minister is responsible for the administration of this Act and the Acts that are assigned or transferred to him by the Legislature or by the Lieutenant Governor in Council. R.S.O. 1960, c. 241, s. 5.

Deputy
Minister of
Mines and
Northern
Affairs

6.—(1) A Deputy Minister of Mines and Northern Affairs shall be appointed by the Lieutenant Governor in Council and he shall perform such duties in connection with mines, mining lands and the mining industry and other matters as are assigned to him by the Lieutenant Governor in Council or by the Minister and, in the absence of the Minister or in the case of a vacancy in the office of the Minister, he shall discharge the duties of the Minister with respect to mines, minerals, mining lands and the mining industry and such other matters as are so assigned to him. R.S.O. 1960, c. 241, s. 6 (1); 1970, c. 26, s. 3.

Powers
of Deputy
Minister

(2) The Deputy Minister has all the powers, rights and authority of an inspector and such other powers, rights and authority for carrying into effect the provisions of this Act as are assigned to him by the regulations. R.S.O. 1960, c. 241, s. 6 (2).

7.—(1) All public lands for mining purposes and for the purposes of the mineral industry and all regulations made with respect to mines or minerals or mining or mining lands or mining rights or the mineral industry shall be administered by the Minister.

Adminis-
tration by
Minister

(2) All patents, leases, licences or other instruments of title and all agreements, contracts or other writings relating to mines or minerals or mining lands or mining rights or the mineral industry shall be signed and executed by the Minister or by the Deputy Minister. R.S.O. 1960, c. 241, s. 7.

Execution of
instruments

8. The Lieutenant Governor in Council may appoint such officers and agents as he considers necessary, who shall be officers of the Department and shall perform such duties as are assigned to them by this Act or by the regulations. R.S.O. 1960, c. 241, s. 8 (1); 1962-63, c. 84, s. 3 (1).

Officers
and agents,
appointment

9.—(1) The Lieutenant Governor may appoint for each mining division a mining recorder, who shall be an officer of the Department. R.S.O. 1960, c. 241, s. 9 (1).

Mining
recorder

(2) Where a mining recorder is absent because of illness or for any other reason, the Minister may appoint in writing a person to act as mining recorder *pro tempore*, but such person shall exercise only such of the duties of the recorder as are defined in the appointment.

Appoint-
ment in
absence of
mining
recorder

(3) Where a mining recorder is absent because of illness or for any other reason and no appointment is made under subsection 2, the Supervisor is *pro tempore* mining recorder for that division and may exercise all of the duties of the recorder. 1968, c. 71, s. 2.

Idem

10. Every recorder shall keep such books for the recording of mining claims, applications and other entries therein as are directed by the Minister, and such books shall be open to inspection by any person on payment of a fee of 25 cents for each claim or application examined, and every recorder shall also keep displayed in his office one or more maps showing the territory included in his mining division and shall mark thereon all claims as they are recorded, and there shall be no charge for examining such map or maps. R.S.O. 1960, c. 241, s. 10.

Books and
maps to
be kept by
recorder

11. Every document filed in the recorder's office shall, during office hours, be open to inspection by anyone on payment of the prescribed fee. R.S.O. 1960, c. 241, s. 11.

Right
to inspect
documents

12. Every copy of or extract from an entry in any of such books, and of any document filed in the recorder's office, certified to be a true copy or extract by the recorder, shall be received in any court as *prima facie* evidence of the matter certified by him without proof of his appointment, authority or signature. R.S.O. 1960, c. 241, s. 12.

Evidence of
records

Employ-
ment of
experts, etc.
R.S.O. 1970,
c. 386

13. Notwithstanding anything in *The Public Service Act*, the Minister may employ any professor, instructor, or other person to investigate the mineral resources of Ontario, or for any work in connection with this Act, and may pay him for such services at such rate as is agreed upon, out of the moneys that are appropriated by the Legislature for that purpose. R.S.O. 1960, c. 241, s. 13.

Inspection
of minerals

14.—(1) An inspector may enter upon any lands for the purpose of gathering information respecting minerals or mineral rights and may enter any structure or works for the purpose of gathering information respecting ore and may take therefrom representative samples of minerals and ore sufficient for the purpose of testing or analysis.

Enforcement

(2) An inspector shall be deemed to be an officer appointed under this Act for the purposes of section 628. 1970, c. 26, s. 4.

Officers not
to be
interested
in mining
lands or
claims
situate in
Ontario

15.—(1) No officer appointed under this Act shall directly or indirectly, by himself or by any other person, purchase or become interested in any mining lands, mining rights or mining claims situate in Ontario, and any such purchase or interest is void. R.S.O. 1960, c. 241, s. 14 (1); 1962-63, c. 84, s. 4.

Penalty

(2) Any officer contravening any provision of subsection 1 forfeits his office and is, in addition thereto, liable to a penalty of \$500 to be recovered in any court of competent jurisdiction by any person who sues for it. R.S.O. 1960, c. 241, s. 14 (2).

Regulations
respecting
common use
of certain
offices

16. The Lieutenant Governor in Council may make regulations respecting the offices to be used in common between the Department of Lands and Forests and the Department of Mines and Northern Affairs, and the services to be rendered to either of the departments by the other of them, and the officers, clerks, and servants of the Department of Lands and Forests shall render such services to the Department of Mines and Northern Affairs as are required of them from time to time, and all maps, books, papers, correspondence, records or other matters or things in the Department of Lands and Forests shall be open to and may be examined by the Minister of Mines and Northern Affairs or the officers and clerks of the Department of Mines and Northern Affairs in the discharge of their departmental duties. R.S.O. 1960, c. 241, s. 15; 1970, c. 26, s. 5.

Certain
officers not
to be sub-
poenaed
without
order or
direction

17.—(1) A subpoena shall not issue out of any court requiring the attendance of the Deputy Minister, the Commissioner or any officer or agent of the Department, or the production of any document in the official custody or possession of any of them, without an order of the court or a judge thereof or, in matters before the Commissioner, without a direction of the Commissioner. R.S.O. 1960, c. 241, s. 16 (1); 1962-63, c. 84, s. 5 (1).

(2) The Deputy Minister, the Commissioner or any officer or agent of the Department is not bound to disclose any information obtained by him in his official capacity that a member of the Executive Council certifies ought not in the public interest to be divulged or cannot without prejudice to the interests of persons not concerned in the litigation be divulged, and all such information is privileged. R.S.O. 1960, c. 241, s. 16 (2); 1962-63, c. 84, s. 5 (2). Privilege as to official information

(3) No action or other proceeding for damages shall be instituted against the Deputy Minister, the Commissioner, or any officer of the Department or anyone acting under his authority for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty. Protection from personal liability

(4) In addition to the persons otherwise constituted officers of the Department by this Act, any employee of the Department designated in writing by the Minister as an officer of the Department shall be deemed to be an officer of the Department for the purposes of this section. 1970, c. 26, s. 6. Officers designated by Minister

18.—(1) The Commissioner, Director, Supervisor and Director of the Northern Affairs Branch of the Department are *ex officio* justices of the peace for every county and district in Ontario and a recorder in his division is *ex officio* a justice of the peace for the county or district in which any part of his division lies, and it is not necessary that they possess any residential or property qualification. R.S.O. 1960, c. 241, s. 17; 1968, c. 71, s. 3; 1970, c. 26, s. 7 (1). Ex officio justices of the peace

(2) Every mining recorder and person designated by the Minister in writing as a Northern Affairs officer is *ex officio* a commissioner for taking affidavits in Ontario. 1970, c. 26, s. 7 (2). Recorders, commissioners for affidavits

19. The Minister or Deputy Minister may, in the prescribed form, authorize any officer, employee or agent of the Department to take affidavits, declarations or affirmations required under this Act, and any declaration, affidavit or affirmation taken before the person so authorized has the same force and effect as if taken before a commissioner appointed under *The Commissioners for taking Affidavits Act*. R.S.O. 1960, c. 241, s. 18. Officers authorized to take affidavits
R.S.O. 1970, c. 72

20. The Lieutenant Governor in Council may divide the Province into mining divisions and may alter the number, limits or extent thereof. R.S.O. 1960, c. 241, s. 19. Mining divisions

21.—(1) Except as in this Act otherwise provided, the recorder's office is the proper office for filing and recording all applications, documents and other instruments required or permitted to be filed or recorded under this Act, affecting any unpatented Certain documents filed in recorder's office

mining claim or any right, privilege or interest that may be acquired under this Act respecting an unpatented mining claim, and all such applications, documents and instruments may, before patent, be filed or recorded in such office, but, after patent, *The Land Titles Act* or *The Registry Act*, as the case may be, applies.

R.S.O. 1970,
cc. 234, 409

Certain
documents
filed in
Minister's
office

(2) Except as in this Act otherwise provided, the Minister's office is the proper office for filing and recording all applications, documents and other instruments required or permitted to be filed or recorded under this Act, affecting any mining licence of occupation or any right, privilege or interest that may be acquired under this Act respecting a mining licence of occupation, or affecting any grant under this Act or the regulations that is not a grant that may be registered under *The Land Titles Act* or *The Registry Act* or affecting any right, privilege or interest that may be acquired under this Act respecting such a grant, and the Minister may authorize an officer or officers to receive, scrutinize, approve and record any such applications, documents and other instruments. 1962-63, c. 84, s. 6.

Vacancy in
office of
recorder

22. Where a part of Ontario is not included in a mining division or if there is no recorder for a mining division, all applications shall be made to the Department and all duties and powers of the recorder shall be performed and exercised by the Deputy Minister, and all acts, matters and things that in a mining division are to be done by or before a recorder shall be done by or before the Deputy Minister, and all such acts, matters and things that are to be done in the office of the recorder shall be done at the Department. R.S.O. 1960, c. 241, s. 21.

Minister
to furnish
recorder
with list
of lands
patented

23. Upon the issue of a patent by the Crown of mining lands or mining rights, the Minister shall give notice thereof to the recorder of the mining division in which the lands included in the patent are situate, and the recorder shall keep in his office a list of all such lands. R.S.O. 1960, c. 241, s. 22.

Licence
required

24.—(1) No person or company not the holder of a miner's licence shall prospect for minerals upon Crown lands or lands of which the mining rights are in the Crown, or stake out, record or acquire any unpatented mining claim, or area of land for boring permit, or acquire any right or interest therein.

Clerks or
employees
not to
require
licence

(2) A clerk or employee of a licensee performing clerical, manual or other services of like nature shall not be required to be the holder of a miner's licence. R.S.O. 1960, c. 241, s. 23.

Who may
receive
licences

25.—(1) Any person over eighteen years of age and, subject to subsection 8, any company, is entitled to obtain a miner's licence upon application therefor in the prescribed form and upon payment of the prescribed fee.

(2) The licence shall be dated on the day of the issue thereof and it expires at midnight on the 31st day of March then next ensuing.

Date and
term of
licence

(3) Subject to subsection 4, the licence is not valid unless it is signed by the holder thereof in the space provided on the licence.

Licence not
valid unless
signed

(4) Where the licensee is a company, the licence shall be signed by the president or secretary of the company.

Officer to
sign for
company

(5) The licence is not transferable.

Licence not
transferable

(6) Licences to companies shall be issued only by the Minister or by the Deputy Minister.

Licences to
companies

(7) Licences to individuals may be issued by the Minister or the Deputy Minister or by any recorder. R.S.O. 1960, c. 241, s. 24 (1-7), *amended*.

Licences to
individuals

(8) Where a company,

Proof re-
quired before
licence is
issued to
company

(a) incorporated in Ontario, satisfies the Minister that it is so incorporated; or

(b) incorporated outside Ontario, satisfies the Minister that it is so incorporated and that it is not required to be licensed under Part IX of *The Corporations Act*; or

R.S.O. 1970,
c. 89

(c) other than a company coming within clause *a* or *b*, files with the Department a copy of the licence authorizing it to transact business or hold land in Ontario verified by an affidavit of an officer of the company,

a licence shall be issued to the company. R.S.O. 1960, c. 241, s. 24 (8); 1962-63, c. 84, s. 7.

26. Every miner's licence shall be numbered, and shall also be lettered with a letter of the alphabet to indicate the office from which it was issued. R.S.O. 1960, c. 241, s. 25.

Numbering
and lettering
of licences

27. A miner's licence held by a company does not entitle any shareholder, officer or employee thereof to the rights or privileges of a licensee and shall not be used for the staking of mining claims. R.S.O. 1960, c. 241, s. 26.

Effect of
licence to
company

28.—(1) A licensee is entitled to a renewal of his licence before its expiration upon making application therefor in the prescribed form, upon producing his licence and paying the prescribed fee.

Renewal of
licences

(2) Licences to companies may be renewed by the Minister or the Deputy Minister, and licences to individuals may be renewed by the Minister or the Deputy Minister or by any recorder.

Who
may issue
renewals

(3) The renewal shall bear date on the 1st day of April and shall be deemed to have been issued and shall take effect immediately upon the expiration of the licence of which it is a renewal, or of the last preceding renewal, as the case may be.

Date and
effect of
renewal

Form	(4) The renewal shall bear the same number and letter as the original licence and, after it comes into effect, it shall be deemed to be the licence of the licensee.
Renewal of licence by Minister	(5) The Minister may renew the licence of any person who has held a miner's licence continuously for twenty-five years or more without the payment of the prescribed fee if application therefor is made to him prior to the expiration of the last renewal. R.S.O. 1960, c. 241, s. 27.
Accidental destruction or loss of licence	<p>29.—(1) If a miner's licence is accidentally destroyed or lost, the holder may,</p> <p>(a) upon proof by statutory declaration that the original has been destroyed or lost and setting out the circumstances thereof; and</p> <p>(b) upon payment of the prescribed fee,</p> <p>obtain a duplicate thereof from the office of the Minister, Deputy Minister or any recorder. 1962-63, c. 84, s. 8.</p>
Substituted licence	(2) Every such duplicate shall be marked "substituted licence" and shall bear the same date and number as the original licence. R.S.O. 1960, c. 241, s. 28 (2).
Not more than one licence	30. —(1) No person or company shall apply for or hold more than one miner's licence.
Refund where more than one licence issued	(2) A contravention of this section is an offence against this Act, but, where the Minister is satisfied that there was no improper intent and upon surrender of the unnecessary licence or licences, the Minister may relieve from the penalty and may direct a refund of the fee or fees paid. R.S.O. 1960, c. 241, s. 29.
Production of licence	31. Every licensee shall upon demand produce and exhibit his licence to an inspector or a recorder. R.S.O. 1960, c. 241, s. 30.
Licence to date from application	32. Where application for licence or a renewal of a licence is made during the absence of a recorder from his office, the applicant may leave with the person in charge of the office his application and such documents as he is required to produce in order to obtain the licence or renewal and the prescribed fee, and in every such case the licence or renewal when issued is as effective as if obtained at the time of the application, and the licence shall bear that date. R.S.O. 1960, c. 241, s. 31.
Licensee under twenty-one years of age	33. A licensee under the age of twenty-one years, in respect of mining claims, mining lands and mining rights and all matters and transactions relating thereto, has the same rights and is subject to the same obligations and liabilities as if he were of full age. R.S.O. 1960, c. 241, s. 32.

34.—(1) The Minister, on the recommendation of the Commissioner, may revoke the licence of any licensee who is guilty of a wilful contravention of any of the provisions of this Act, and a licence shall not thereafter be issued to such licensee without the authority of the Minister. R.S.O. 1960, c. 241, s. 33 (1). Revocation of licence for contravention of Act

(2) Where a licence is revoked under subsection 1, the Minister shall determine and notify the holder of the licence revoked of the period of time during which a licence shall not be issued to him. 1967, c. 54, s. 2, *part*. Idem

(3) The Minister may, upon the recommendation of a recorder, suspend the licence of a licensee who contravenes any of the provisions of this Act. R.S.O. 1960, c. 241, s. 33 (2). Suspension of licences

(4) Where a licence is suspended under subsection 3, the Minister shall determine and notify the holder of the licence suspended of the period of time during which his licence is suspended. Idem

(5) While a licence is suspended under subsection 3, the licensee may renew his licence or transfer claims to another licensee or report work, but he may not stake out or apply for a mining claim or acquire an unpatented mining claim or interest therein through transfer or obtain an extension of time in which to perform work or in which to apply for lease on any unpatented mining claim recorded in his name. 1967, c. 54, s. 2, *part*. Rights of licensee under suspension

PART II

MINING CLAIMS

LANDS OPEN

35. Except where otherwise provided, the holder of a miner's licence may prospect for minerals and stake out a mining claim on any, Where licensee may prospect for minerals

- (a) Crown lands, surveyed or unsurveyed;
- (b) lands, the mines, minerals or mining rights whereof have been reserved by the Crown in the location, sale, patent or lease of such lands where they have been located, sold, patented or leased after the 6th day of May, 1913,

not at the time,

- (c) under staking or record as a mining claim that has not lapsed or been abandoned, cancelled or forfeited; or
- (d) withdrawn by any Act, order in council, or other competent authority from prospecting, location or sale, or declared by any such authority to be not open to

prospecting, staking out or sale as mining claims. R.S.O. 1960, c. 241, s. 34.

Claim may
be staked

36. A licensee may stake out a mining claim on any land open for prospecting and, subject to the other provisions of this Act, may work such claim and transfer his interest therein to another licensee; but, where the surface rights in the land have been granted, sold, leased or located by the Crown, compensation must be made as provided by section 101. R.S.O. 1960, c. 241, s. 35.

LANDS NOT OPEN

Land not
open for
prospecting
without
consent

37. No mining claim shall be staked out or recorded upon any land transferred to or vested in the Ontario Northland Transportation Commission without the consent of the Commission nor, except with the consent of the Minister,

- (a) upon any land reserved or set apart as a town site by the Crown;
- (b) upon any land laid out into town or village lots on a registered plan by the owner thereof;
- (c) upon any land forming the station grounds, switching grounds, yard or right of way of a railway;
- (d) upon any colonization or other road or road allowance. R.S.O. 1960, c. 241, s. 36.

Lands
upon which
claim may
not be
staked out

38. No mining claim shall be staked out or recorded on any land,

- (a) that, without reservation of the minerals, has been sold, located, leased or included in a licence of occupation; or
- (b) for which a *bona fide* application is pending in the Department of Lands and Forests under *The Public Lands Act*, or otherwise, and the applicant may acquire the minerals; or
- (c) where the surface rights have been subdivided, surveyed, sold or otherwise disposed of by the Department of Lands and Forests for summer resort purposes, except where the Minister of Mines and Northern Affairs certifies in writing that in his opinion discovery of valuable mineral in place has been made; or
- (d) where the Minister of Lands and Forests or the Minister of Highways certifies that land is required for the development of water power or for a highway or for some other purpose in the public interest and the Minister of Mines and Northern Affairs is satisfied that a discovery of mineral in place has not been made thereon; or

R.S.O. 1970,
c. 380

- (e) in an Indian reserve, except as provided by *The Indian Lands Act*, 1924; or 1924, c. 15
- (f) while proceedings in respect thereto are pending before the Supreme Court, the Commissioner or a recorder. R.S.O. 1960, c. 241, s. 37; 1962-63, c. 84, s. 9; 1964, c. 62, s. 1; 1970, c. 26, s. 8.

39. Prospecting or the staking out of mining claims or the development of mineral interests or the working of mines in provincial parks is prohibited except as provided by the regulations made under *The Provincial Parks Act*. R.S.O. 1960, c. 241, s. 38. Provincial parks R.S.O. 1970, c. 371

40.—(1) Notwithstanding that the mines or minerals therein have been reserved to the Crown, no person or company shall prospect for minerals or stake out a mining claim upon the part of a lot that is used as a garden, orchard, vineyard, nursery, plantation or pleasure ground, or upon which crops that may be damaged by such prospecting are growing, or on the part of a lot upon which is situated a spring, artificial reservoir, dam or waterworks, or a dwelling house, outhouse, manufactory, public building, church or cemetery, except with the consent of the owner, lessee, purchaser or locatee of the surface rights, or by order of the recorder or the Commissioner, and upon such terms as to him seem just. R.S.O. 1960, c. 241, s. 39 (1); 1962-63, c. 84, s. 10 (1). Lands used or occupied as gardens, etc.

(2) If a dispute arises between the intending prospector and the owner, lessee, purchaser or locatee as to land that is exempt from prospecting or staking out under subsection 1, the recorder or the Commissioner shall determine the extent of the land that is so exempt. R.S.O. 1960, c. 241, s. 39 (2); 1962-63, c. 84, s. 10 (2). Disputes as to lands exempt

41. A water power lying within the limits of a mining claim, which at low water mark in its natural condition is capable of producing 150 horsepower or upwards, shall not be deemed to be part of the claim for the use of the licensee, and a road allowance of one chain in width shall be reserved on both sides of the water together with such additional area of land as in the opinion of the recorder or the Commissioner may be necessary for the development and utilization of such water power. R.S.O. 1960, c. 241, s. 40. Valuable water powers not included in claim

42. Where a mining claim adjoins or is adjacent to a highway or road maintained by the Department of Highways, no surface mining operations shall be carried on within 150 feet of the limits of the highway or road except with the consent in writing of the Minister. R.S.O. 1960, c. 241, s. 41. Surface operations within 150 feet of highway

Withdrawal
and re-
opening of
lands, etc.

43.—(1) The Minister, or an officer appointed under this Act and designated by the Minister, may by an order signed by him,

- (a) withdraw from prospecting and staking out and from sale or lease any lands, mining rights or surface rights that are the property of the Crown; and
- (b) reopen for prospecting and staking out and for sale or lease any lands, mining rights or surface rights that have been withdrawn under this Act.

Copy of
order sent
to recorder

(2) Where the Minister or the officer makes an order under subsection 1, he shall within twenty-four hours of the date of the order mail a copy of the order to the recorder of the mining division in which the lands, mining rights or surface rights are situate.

Filing copy
of order

(3) Upon receipt of the copy of the order, the recorder shall forthwith post up in his office a notice of the order and file the copy of the order in his office.

Lands, etc.,
withdrawn
not to be
prospected
or worked

(4) Lands, mining rights or surface rights withdrawn under this section, until reopened by the Minister or the officer, shall remain withdrawn, and shall not be prospected, staked out, occupied or worked except under subsection 5.

Working on
behalf of
Crown

(5) The Lieutenant Governor in Council may direct that the mines and minerals in lands, mining rights or surface rights, or in any part thereof, withdrawn under this section may be worked by or on behalf of the Crown.

Order not a
regulation
R.S.O. 1970,
c. 410

(6) An order under subsection 1 shall be deemed not to be a regulation within the meaning of *The Regulations Act*. 1964, c. 62, s. 2 (1).

Duty of
officers of
the Crown
discovering
mineral

44.—(1) Every officer appointed or acting under this Act and every assistant of such officer who makes a discovery of valuable mineral upon any lands or mining rights open to prospecting and staking out as a mining claim shall stake out and record a parcel thereof of the size and form of a mining claim on behalf of the Crown, and no licence is required for that purpose.

Method

(2) No proceeding is necessary for such staking out except to plant posts and blaze lines as provided in respect to a mining claim, but the officer or assistant shall mark upon No. 1 post the words "Staked out for the Crown", and within the time limited by this Act for recording the claim shall notify the recorder of the staking out, giving the date of staking out and the description of the property.

Recording

(3) The recorder upon receiving such notice shall enter the parcel of land upon his record book as staked out on behalf of the Crown, and shall mark it upon his map with the letter "C", and

after such staking out the parcel is not open to staking out or recording. R.S.O. 1960, c. 241, s. 45.

45. Land or mining rights staked out on behalf of the Crown, and land or mining rights reserved or withdrawn from prospecting, staking out, or sale as mining claims, may be worked, sold, leased or granted by the Crown or worked under an agreement or arrangement with the Crown in such manner and upon such terms and conditions and for such price as is provided by the Lieutenant Governor in Council. R.S.O. 1960, c. 241, s. 46.

Crown may contract for working mining rights under agreement

PROVINCIAL FORESTS

46.—(1) This section applies to leases of mining lands in provincial forests made before the 25th day of March, 1964. 1964, c. 62, s. 3, *amended*.

Application of section

(2) Every such lease is renewable in perpetuity for periods of ten years and every renewal shall date from the day following the expiration of the lease or last renewal thereof if application therefor is made within ninety days of the expiration of the lease or the last renewal thereof or within such further period as the Minister, in the circumstances of the case, considers proper. R.S.O. 1960, c. 241, s. 47 (2).

Renewal of leases

(3) Subject to any special terms, the annual rental is \$1 an acre but not less than \$10 in a year from the time of the first renewal after the 25th day of March. 1968, c. 71, ss. 12, 15, *amended*.

Rate

(4) Where payment of the rental under any such lease is in arrears for two years or more, the lease may be terminated by an instrument in writing. R.S.O. 1960, c. 241, s. 47 (4).

Termination of lease for arrears of rent

(5) Where a lease has not been renewed under subsection 2 or has been terminated under subsection 4, the Minister may cause a notice of termination to be registered in the proper land titles or registry office, and the master of titles or registrar of the registry division, as the case may be, shall, upon receipt of the notice, duly register it, and thereupon all the interests of the lessee, his heirs, executors, administrators and assigns shall be deemed to have ceased and determined, and the land included in such lease is revested in the Crown freed and discharged from every claim. 1962-63, c. 84, s. 11 (2).

Notice of termination of lease

(6) When a lease is terminated under this section, the lease and all rights and powers therein contained, as well as all rights and claims of the lessee, his successors or assigns in or to the lands covered by the lease, cease, and such lands are vested in the Crown freed and discharged from every claim and are not open for prospecting, staking out or leasing until re-opened by the Lieutenant Governor in Council. R.S.O. 1960, c. 241, s. 47 (6).

Lands vested in Crown on termination of lease

R.S.O. 1970,
cc. 234, 409,
not to apply
to forfeited
lands

(7) Upon registration of the notice under subsection 5 in the land titles or registry office, *The Land Titles Act* or *The Registry Act*, as the case may be, ceases to apply to the lands, and the master of titles or the registrar shall note that fact in his register in red ink.

Lessee may
be issued
lease under
s. 104

(8) The holder of a lease to which this section applies may, upon application in writing therefor and upon the surrender of his lease, be issued a lease under section 104, and the rental for each year in the term of the lease shall be that prescribed by section 104 for years subsequent to the first year of a term under that section. 1962-63, c. 84, s. 11 (3), *part*.

Permit under
R.S.O. 1970,
c. 179

47. Before beginning or carrying on any work prescribed by this Act on a mining claim, the holder thereof, in addition to any other requirement, shall obtain a written permit entitling him so to do as provided in *The Forest Fires Prevention Act*. R.S.O. 1960, c. 241, s. 48.

SIZE AND FORM OF MINING CLAIMS

Mining
claims in
unsurveyed
territory,
how to be
laid out

48. A mining claim in unsurveyed territory shall be laid out with boundary lines running north and south and east and west astronomically and the measurements thereof shall be horizontal, and in a township surveyed into lots or quarter sections or subdivisions, of a section, a mining claim shall be such part of a lot or quarter section or subdivision of a section as is hereinafter defined, and the boundaries of all mining claims shall extend downwards vertically on all sides. R.S.O. 1960, c. 241, s. 49.

Mining
claims on
agricultural
lands

49.—(1) Where the Minister of Lands and Forests certifies that land is suitable for disposition for agricultural purposes, a mining claim staked thereon does not give the staker any right, title or interest in or to the surface rights.

Where
surface
rights
necessary
for mining
operations

(2) Where surface rights on any such land are necessary to the carrying on of mining operations, the Minister may determine the part of the surface rights so required and, if not previously disposed of, may sell or award the surface rights or such part thereof to the claim holder as he considers essential to the efficient carrying on of mining operations, and he may require the claim holder to have such surveys made at the expense of the claim holder as he considers proper. R.S.O. 1960, c. 241, s. 50.

Size and
form of
claims, in
unsurveyed
territory
in townships
surveyed
into sections
of 640 acres

50.—(1) In unsurveyed territory, a mining claim shall be a square of 40 acres, being 20 chains (1,320 ft.) on each side.

(2) In a township surveyed into sections of 640 acres subdivided into quarter sections or subdivisions containing 160 acres or thereabouts, a mining claim shall consist of the northeast quarter, the northwest quarter, the southeast quarter or the southwest

quarter of a quarter section or subdivision, and shall contain 40 acres or thereabouts.

(3) In a township surveyed into lots of 320 acres, a mining claim shall consist of the northwest quarter of the north half, the northeast quarter of the north half, the southwest quarter of the north half, the southeast quarter of the north half of a lot, or any like subdivision of the south half of a lot, and shall contain 40 acres or thereabouts.

in townships
surveyed
into lots of
320 acres

(4) In a township surveyed into lots of 200 acres, a mining claim shall consist of the northeast quarter, the southwest quarter, the northwest quarter or the southeast quarter of a lot, and shall contain 50 acres or thereabouts.

in townships
surveyed
into lots of
200 acres

(5) In a township surveyed into lots of 150 acres, a mining claim shall consist of the northeast quarter, the southeast quarter, the northwest quarter or the southwest quarter of a lot, and shall contain $37\frac{1}{2}$ acres or thereabouts.

in townships
surveyed
into lots of
150 acres

(6) In a township surveyed into lots of 100 acres, a mining claim shall consist of the north half, the south half, the east half or the west half of a lot, and shall contain 50 acres or thereabouts. R.S.O. 1960, c. 241, s. 51.

in townships
surveyed
into lots of
100 acres

51.—(1) In unsurveyed territory, an irregular area of land lying between land not open to be staked out, or bordering on water, may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as practicable to the prescribed form and area and shall not exceed the prescribed area.

Irregular
areas in
unsurveyed
territory,
marking
boundaries

(2) In a surveyed township where, by reason of land covered with water being excluded from the area of a lot, quarter section or subdivision of a section, or by reason of the lot, quarter section or subdivision being irregular in form, or from any other cause, it is impossible to stake out a mining claim of the prescribed area in accordance with the foregoing provisions of this Act, the mining claim shall as nearly as is practicable be of the prescribed form and area, and shall have such, if any, of its boundaries as can be so made coincident with boundary lines of the lot, quarter section or subdivision of a section, and shall have as many as possible of its boundaries that are not so coincident parallel to boundaries of the lot, quarter section or subdivision which are straight lines, and, where necessary to procure the prescribed area, the mining claim may extend into any part of the lot or quarter section or subdivision of a section, but not into any other lot or quarter section or subdivision of a section, and land lying between parcels of land not open to be staked out or between such land and a boundary or boundaries of the lot, quarter section or subdivision of a section may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as

in surveyed
townships

practicable to the prescribed form and area and shall not exceed the prescribed area.

Claims,
including
lands
covered
with water

(3) In unsurveyed territory, land covered with water may be included in a claim in the same way as land not covered with water, and in a surveyed township, land covered with water that would, if not covered with water, have been comprised in the area of the lot, quarter section or subdivision of a section, or have constituted a lot, quarter section or subdivision of a section, may be included in a claim as if it were in fact part of such lot, quarter section or subdivision of a section.

Crown
reservation

(4) Where a claim includes land covered with or bordering on water, there may be reserved for the Crown the surface rights not exceeding 400 feet in width from the high water mark. R.S.O. 1960, c. 241, s. 52 (1-4).

Crown
reservation

(5) Where a claim is traversed by a highway or road constructed or maintained by the Department of Highways, there may be reserved for the Crown the surface rights not exceeding 300 feet in width along both sides of the highway or road, such reservation to be measured from the outside limits of the right of way of the highway or road.

Application
of Crown
reservation
to un-
patented
mining
claims

(6) The reservations of surface rights authorized by subsections 4 and 5 shall be deemed to apply to and to have been made on all unpatented mining claims unless such reservation or reservations are waived by the Minister.

Application
of section

52.—(1) This section applies to leases and licences to extract mineral from land under navigable water, made before the 25th day of March, 1964. 1964, c. 62, s. 4 (4), *amended*.

Application
of s. 46,
subss. 2-8

(2) Subsections 2, 3, 4, 5, 6, 7 and 8 of section 46 apply *mutatis mutandis* to such leases.

Rate for
licences
of
occupation

(3) Subject to any special terms, the annual rental for a licence of occupation is \$1 an acre but not less than \$10 a year from the first anniversary date after the 25th day of March, 1964. 1968, c. 71, ss. 13, 15, *amended*.

Termination
of licence of
occupation

(4) Where payment of the rental under any such licence is in arrears for two years or more, the licence may be terminated by an instrument in writing, and all rights and powers therein contained as well as all rights and claims of the licensee, his successors or assigns, in or to the lands covered by the licence, cease, but the lands or mining rights contained therein are not open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, at least two weeks notice of which shall be published in *The Ontario Gazette*. 1962-63, c. 84, s. 12 (2).

Reinstatement

(5) Where there is no adverse interest, the Minister may, upon such terms as he considers just, reinstate a licence terminated under subsection 4. R.S.O. 1960, c. 241, s. 52 (9).

(6) A licence or the term or terms thereby created is not transferable without the written consent of the Minister or an officer duly authorized by him. 1962-63, c. 84, s. 12 (3). Consent to transfer of licence

53.—(1) Subject to section 52, where a licence of occupation was issued before the 14th day of April, 1965 under any predecessor of this Act and there is no provision in the licence of occupation for the payment of an annual rental, the annual rental, payable in advance, is 25 cents per acre, the minimum annual rental being \$1. Annual rental for licence of occupation

(2) The rental prescribed by subsection 1 is payable on the anniversary of the effective date of the licence of occupation next following the 14th day of April, 1965. 1965, c. 73, s. 10, *amended*. Idem

54.—(1) Where the Minister considers it in the public interest, he may direct that mining claims in a surveyed township shall be staked and recorded in the same manner as mining claims in unsurveyed territory. Special staking in surveyed townships

(2) Where the Minister considers it inequitable to require compliance with any of the requirements of section 50 or 51 with respect to a mining claim that has been staked and recorded in a surveyed township, he may waive any such requirements. Waiving section 50 or 51

(3) Every survey of a mining claim coming under this section shall indicate and describe the parts of the lots or sections, according to the original survey of the township, included within the limits of such claim, together with the areas thereof. R.S.O. 1960, c. 241, s. 53, *amended*. Surveys

STAKING OUT CLAIMS

55.—(1) A licensee is not limited as to the number of mining claims that may be staked out and applied for in a licence year. 1968-69, c. 68, s. 1. Number of claims unlimited

(2) For the purpose of subsection 1, the purchase of sets of metal tags under subsection 1 of section 64 shall be deemed to be mining claims staked out and applied for. R.S.O. 1960, c. 241, s. 54 (2). Idem

(3) Notwithstanding subsection 3 of section 64, a licensee who is prohibited from staking out a mining claim under the provisions of section 56 because he is the purchaser of an unused set of metal tags may, notwithstanding subsection 2 of this section, stake out and apply for a mining claim if the unused set of metal tags is surrendered to and cancelled by the recorder before the mining claim is presented to the recorder for recording. 1965, c. 73, s. 1. Licensee holding unused metal tags may stake out and apply for mining claim

56.—(1) A licensee shall stake out a mining claim,

- (a) by planting or erecting a post at each of the four corners of the claim, beginning with and marking that at the

Staking out and planting

northeast corner "No. 1", that at the southeast corner "No. 2", that at the southwest corner "No. 3", and that at the northwest corner "No. 4", so that the number is on the side of the post toward the post next following it in the order named;

- (b) by writing or otherwise inscribing on No. 1 post his name, the letter and number of his licence, the date and hour of the commencement of staking out, and, if the claim is situated in a township surveyed into lots, quarter-sections or subdivisions of a section, the part thereof comprised in the claim, mentioning the lot and concession or the section by number;
- (c) by writing or otherwise inscribing his name and the letter and number of his licence on No. 2, No. 3 and No. 4 posts; and
- (d) by plainly blazing the trees on two sides only where there are standing trees, and cutting the underbrush along the boundary lines of the claim, or where there are not standing trees, clearly indicating the outlines of the claim by planting thereon durable pickets not less than 5 feet in height at intervals of not more than 2 chains (132 feet) or by erecting at such intervals monuments of earth or rock not less than 2 feet in diameter at the base and at least 2 feet high so that the lines may be distinctly seen. R.S.O. 1960, c. 241, s. 55 (1); 1962-63, c. 84, s. 13 (1, 2).

Witness
post

(2) Where at a corner of the claim the nature or conformation of the ground renders the planting or erecting of a post impracticable, the corner may be indicated by planting or erecting at the nearest practicable point a witness post bearing the same marking as that prescribed for the corner post at that corner together with the letters "W.P." and an indication of the direction and distance of the site of the true corner from the witness post.

Mode of
planting,
squaring,
etc., of posts

(3) Every post shall stand not less than four feet above the ground, and shall be squared or faced on four sides for at least one foot from the top, and each side shall measure at least four inches across where squared or faced, but a standing stump or tree may be used as a post if cut off and squared and faced to such height and size, and when the survey is made the centre of the tree or stump where it enters the ground shall be taken as the point to or from which the measurement shall be made.

Idem

(4) Every post shall be a post, standing stump or tree not before used as a post for a mining claim.

Illustration
of method
of staking

(5) The following diagrams are intended to illustrate the method of staking out a claim as mentioned in subsections 1 and 2:



Diagram illustrating s. 55 (1).



Diagram illustrating s. 56 (2).

R.S.O. 1960, c. 241, s. 55 (2-5).

(6) Notwithstanding section 59, the writing or inscribing required on the posts by clauses *b* and *c* of subsection 1 shall be done, at the time that the posts are erected, by the licensee staking out the mining claim. 1962-63, c. 84, s. 13 (3).

Writing done
by licensee
at time of
erection
of posts

57.—(1) A licensee or other person who for any purpose does any staking out or plants, erects or places any stake, post, or marking upon any land open to prospecting except as authorized by this Act, or causes or procures the same to be done, or who stakes out or partially stakes out any such lands, or causes or procures the same to be done, and fails to record the staking out with the recorder within the prescribed time, is not thereafter entitled to again stake out such lands or any part thereof, or to record a mining claim thereon, unless he notifies the recorder in

Forfeiture
of right
to further
staking

writing of such staking out, partial staking out, or planting, placing or marking and of his abandonment thereof and satisfies the recorder by affidavit that he acted in good faith and for no improper purpose and procures from him a certificate stating that the recorder is satisfied that he so acted.

Entry (2) The recorder shall enter every such certificate in his books with the date of its issue. R.S.O. 1960, c. 241, s. 56.

Staking out
claims in
closed fire
district
R.S.O. 1970,
c. 179

58. Where a mining claim is in a fire district and it is staked out during the time that the fire district is closed under *The Forest Fires Prevention Act*, such staking out is invalid and of no effect and the recorder shall not accept an application to record the staking out of the claim unless ordered so to do by the Commissioner upon proof that the person so staking out the claim entered the fire district before it was closed or pursuant to a special authorization of the Minister of Lands and Forests. R.S.O. 1960, c. 241, s. 57.

Substantial
compliance
with Act
sufficient

59. Substantial compliance as nearly as circumstances will reasonably permit with the requirements of this Act as to the staking out of mining claims is sufficient. R.S.O. 1960, c. 241, s. 58.

APPLICATIONS TO RECORD

Plan and
application
to be
furnished
to recorder

60.—(1) A licensee who has staked out a mining claim shall furnish the recorder with,

- (a) a sketch or plan of the mining claim showing the corner posts and the witness posts, if any, and the distance between the posts in feet;
- (b) an application in the prescribed form setting forth,
 - (i) in the case of unsurveyed territory, its locality by such general description and other information as will enable the recorder to indicate the claim on his office map,
 - (ii) in the case of a surveyed township, the lot, quarter section or subdivision of a section and the part thereof comprising the claim,
 - (iii) the day and hour when the claim was staked out,
 - (iv) the date of the application, and
 - (v) where metal tags have been affixed to the corner posts under section 64, the letters and numbers on the tags so affixed; and
- (c) the prescribed fee.

Time limit
for com-
pliance

(2) A licensee shall comply with subsection 1 not later than thirty-one days from the date of staking.

(3) The licensee shall submit with his application and sketch or plan a certificate in the prescribed form stating,

Certificate
to accom-
pany appli-
cation

- (a) that he has staked out the claim in accordance with this Act;
- (b) that the distances given in his application and sketch or plan are as accurate as they could reasonably be ascertained;
- (c) that all other statements and particulars set forth in the application and shown on the sketch or plan are true and correct;
- (d) that at the time of staking there was nothing upon the lands to indicate that they were not open to be staked and that he believes they were so open;
- (e) that the staking is valid and should be recorded; and
- (f) that there are upon the lands staked no buildings, clearings or improvements for farming or other purposes, except as set forth in the certificate.

(4) The recorder or the Commissioner may, after a hearing, cancel the recording of the claim of a licensee who knowingly makes a false statement in his application under subsection 1 or in his certificate under subsection 3.

Cancellation
of recording

(5) Where it appears that there has been an attempt made in good faith to comply with this Act, the inclusion of more or less than the prescribed area in a mining claim or the failure of the licensee to describe or set out in the application, sketch or plan furnished to the recorder the actual area or parcel of land staked out does not invalidate the claim. R.S.O. 1960, c. 241, s. 59.

Mis-
description,
when not to
invalidate
claim

61. A licensee at the time of making application to record a mining claim shall produce his licence to the recorder and the recorder shall endorse and sign upon the back of the licence a note in writing of the record of the claim, and no such record is complete or effective until such endorsement is made unless upon application to or in any case coming before the Commissioner he considers it just that compliance with the requirements of this section should be waived. R.S.O. 1960, c. 241, s. 60.

Endorse-
ment by
recorder

62. If by error a licensee records a mining claim in a division other than that in which the claim is situate, the error does not affect his title to the claim, but he shall within fifteen days from the discovery of the error record the claim in the division in which it is situate, and the new record shall bear the date of the former record, and a note shall be made thereon of the error and of the date of rectification. R.S.O. 1960, c. 241, s. 61.

Licensee
recording
in another
division by
error

What to be
recorded

63.—(1) The recorder shall forthwith enter in the proper book in his office the particulars of every application to record a mining claim that he considers to be in accordance with this Act, unless a prior application is already recorded and subsisting for the same, or for any substantial part of the same lands or mining rights, and he shall file the application, sketch or plan and affidavit with the records of his office, and every application proper to be recorded shall be deemed to be recorded when it is received in the recorder's office, if all requirements for recording have been complied with, notwithstanding that the application may not have been immediately entered in the record book.

Procedure
when
refused

(2) If an application is presented that the recorder considers to be not in accordance with this Act or that is for lands or mining rights which or any substantial part of which are included in a subsisting recorded claim, he shall not record the application, but shall, if desired by the applicant, upon receiving the prescribed fee, receive and file the application, and any question involved may be adjudicated as provided in this Act, but such filing shall not be deemed a dispute of the recorded claim nor shall it be noted or dealt with as such unless a dispute verified by affidavit is filed with the recorder by the applicant or by another licensee on his behalf as provided in section 65.

Cancellation
of "filed
only"
applications

(3) An application received and filed under subsection 2 is invalid and of no effect sixty days after the receiving and filing unless in the meantime an action is commenced before the recorder or the Commissioner or unless in the meantime the recorder or the Commissioner orders a continuation of the application.

Notice to
applicant

(4) As soon as an application is invalid and of no effect under subsection 3, the recorder shall mark the application cancelled and by registered letter shall notify the applicant at his last known address in the recorder's office of his action and the reason therefor. R.S.O. 1960, c. 241, s. 62 (1-4).

Tagging
claim posts
after
recording

(5) As soon as is reasonably possible after the recording of the mining claim and not later than six months thereafter, the holder of the claim shall affix or cause to be affixed securely to each of the corresponding corner posts of the claim a metal tag plainly marked or impressed with the recorded number of the claim, and the recorder shall supply such numbered tags free of charge. R.S.O. 1960, c. 241, s. 62 (5); 1967, c. 54, s. 4; 1968-69, c. 68, s. 2 (1).

Application
of subs. 5

(6) Subsection 5 does not apply to mining claims on which the metal tags have been affixed to the corner posts at the time of staking under section 64. R.S.O. 1960, c. 241, s. 62 (6).

Cancellation
of claim
where metal
tags not
affixed

(7) Upon receipt of a written report by an inspector or other officer appointed under this Act that the metal tags have not been

affixed within the prescribed time or such further time as is authorized by the Commissioner under section 95, or the recorder under section 89, the recorder shall cancel the claim and shall by registered letter mailed not later than the next day notify the holder thereof of his action and the reason therefor. R.S.O. 1960, c. 241, s. 62 (7); 1962-63, c. 84, s. 14.

(8) Notwithstanding subsection 4 of section 99, where the metal tags have not been affixed as required by subsection 5, any licensee may stake the claim but the recorder shall not record his application therefor until cancellation has been effected under subsection 7. R.S.O. 1960, c. 241, s. 62 (8).

Staking out
pending
cancellation

(9) At the time of recording, the recorder shall add to each claim number the prefix allotted to his division and such prefix shall form part of the claim number. 1968-69, c. 68, s. 2 (2).

Division
prefix to
form part
of claim
number

64.—(1) A licensee may purchase from any mining recorder sets of metal tags for the number of mining claims that he is entitled to stake, and the purchase of such tags and the date thereof shall be endorsed by the mining recorder on the licence of the purchaser. R.S.O. 1960, c. 241, s. 63 (1); 1968-69, c. 68, s. 3 (1).

Issuing of
claim tags
before
staking

(2) The fee for metal tags purchased under subsection 1 is \$1 per set, which shall be deducted by the mining recorder from the fee prescribed in item 4 or item 25 of the Schedule of Fees when the licensee presents an application to record a mining claim on which he has used a set of metal tags so purchased. R.S.O. 1960, c. 241, s. 63 (2).

Fees

(3) A licensee purchasing metal tags under this section shall affix the metal tags to the corresponding corner posts at the time of staking out a mining claim and otherwise the staking out and recording shall be in the manner provided in this Act. R.S.O. 1960, c. 241, s. 63 (3); 1967, s. 54, s. 5 (1).

Affixing
of claim
tags

(4) Metal tags purchased under this section shall be used in staking out claims only by the licensee who purchased them and they shall not be used in staking out claims after the expiry of the licence year in which they were purchased and there shall be no refund of the fee paid for any unused metal tags. R.S.O. 1960, c. 241, s. 63 (4).

Idem

(5) Metal tags purchased under this section may be used for staking out mining claims in any mining division. 1968-69, c. 68, s. 3 (2).

Tags may
be used in
any division

(6) Where metal tags are affixed to the corner posts at the time of staking as provided in subsection 3, the licensee who stakes out the claim shall so state in his application to record the mining claim.

Affixing of
claim tags
to be stated
in applica-
tion to
record

Cancellation
of claim
where metal
tags not
affixed

(7) Upon receipt of a written report by an inspector or other officer appointed under this Act that the metal tags have not been affixed at the time of staking as required by subsection 3, the recorder shall cancel the claim, and shall by registered letter mailed not later than the next day notify the holder thereof of his action and the reason therefor.

Staking out
pending
application

(8) Notwithstanding subsection 4 of section 99, where the metal tags have not been affixed as required by subsection 3, any licensee may stake the claim but the recorder shall not record his application until cancellation has been effected under subsection 7. R.S.O. 1960, c. 241, s. 63 (7-9).

Licensee
staking out
contiguous
claims may
use common
posts at
common
corners

(9) Where metal tags purchased under this section are used in staking out mining claims and the licensee stakes out a group of two or more contiguous claims as part of a continuous action and presents the claims to the recorder for recording at the same time, he may plant or erect and use common posts at common corners if,

- (a) the metal tag and the writing pertaining to each claim are placed on that side of the common post facing the next post for that claim in a clockwise manner; and
- (b) the sketch furnished under subsection 1 of section 60 indicates any common posts so planted or erected,

and otherwise the staking out and recording shall be in the manner provided in this Act. 1967, c. 54, s. 5 (2).

DISPUTING APPLICATIONS

Dispute of
recorded
claim

65.—(1) A dispute in the prescribed form, verified by affidavit in the prescribed form, may be filed with the recorder by a licensee alleging that a recorded claim is illegal or invalid in whole or in part and, if the disputant or the licensee in whose behalf he is acting claims to be entitled to be recorded for or to be entitled to any right or interest in the lands or mining rights, or in any part thereof, comprised in the disputed claim, the dispute shall so state, giving particulars, and the recorder shall, upon payment of the prescribed fee, receive and file such dispute, and shall enter a note thereof upon the record of the disputed claim.

Copy to be
sent to
recorded
holder

(2) A copy of the dispute and affidavit shall be left by the disputant with the recorder who shall not later than the next day after the filing of the dispute transmit the copy by registered mail to the recorded holder or holders of the mining claim affected thereby, and, if the copy is not left, the recorder may refuse to file or note the dispute or may collect from the disputant 10 cents per folio for making the copy.

Address for
service

(3) The dispute shall contain or have endorsed upon it an address in Ontario at which the disputant may be served with any notice or document relating to the dispute, and any such

notice or document is sufficiently served upon the disputant if it is left with a grown-up person at such address or, where no such person can there be found, if sent by registered mail addressed to the disputant at such address.

(4) If no address for service is given as required by subsection 3, any notice or document referred to therein may be served upon the disputant by posting up a copy thereof in the recorder's office. Idem

(5) A dispute shall not be received or entered against a claim after a certificate of record thereof has been granted, nor, except by leave of the Commissioner, after the validity of the claim has been adjudicated upon by the recorder or by the Commissioner, or after it has been on record for sixty days and has already had a dispute entered against it. R.S.O. 1960, c. 241, s. 64. Not to be received after certificate issued

(6) Where the prescribed fee has been paid for filing a dispute under subsection 1, such fee shall be deemed to include the fee for filing any order or orders settling the dispute. 1962-63, c. 84, s. 15. Fee includes fee for filing order

CERTIFICATE OF RECORD

66.—(1) Where a claim has been on record for sixty or more days and, Certificate of record

- (a) if no dispute is standing against the claim; and
- (b) if the recorder is satisfied that the requirements of this Act have been met; and
- (c) if the surface rights compensation, if any, has been paid or secured; and
- (d) if the plan of survey is filed and approved where required under section 117 or 118; and
- (e) upon payment of the prescribed fee,

the recorder shall issue a certificate of record in the prescribed form. R.S.O. 1960, c. 241, s. 65.

(2) Where a claim forms part of a group of claims that have been included in a perimeter survey as provided in subsection 3 of section 117, the recorder shall not issue a certificate of record unless application is made for patent or lease and the price or rental has been paid. 1962-63, c. 84, s. 16. Certificate of record where claim included in perimeter survey

67. The certificate of record, in the absence of mistake or fraud, is final and conclusive evidence of the performance of all the requirements of this Act, except working conditions, in respect of the mining claim up to the date of the certificate, and thereafter the mining claim is not, in the absence of mistake or fraud, liable to impeachment or forfeiture except as expressly provided by this Act. R.S.O. 1960, c. 241, s. 66. Effect of issue and delivery of certificate of record

Cancelling
certificate of
record issued
by mistake,
etc.

68. Where the certificate of record has been issued in mistake or has been obtained by fraud, the Commissioner has power to revoke and cancel it on the application of the Crown or an officer of the Department, or of any person interested. R.S.O. 1960, c. 241, s. 67.

RIGHTS OF LICENSEE

Rights in
claim

69.—(1) The staking out or the filing of an application for or the recording of a mining claim, or all or any of such acts, does not confer upon a licensee any right, title, interest or claim in or to the mining claim other than the right to proceed as in this Act provided to obtain a certificate of record and a patent from the Crown, and prior to the issue of a certificate of record the licensee is merely a licensee of the Crown, and after the issue of the certificate and until he obtains a patent he is a tenant at will of the Crown in respect of the mining claim. R.S.O. 1960, c. 241, s. 68 (1).

Rights in
claim

(2) The staking out or filing of an application for or the recording of a mining claim, or all or any of such acts, does not confer upon a licensee any right to take, remove, or otherwise dispose of any minerals, sand, gravel, stone or any other material found in, upon or under the mining claim.

Reserva-
tions

(3) The Minister may reserve for the Crown the sand and gravel located on an unpatented mining claim.

Reservation
may be
waived

(4) The reservation authorized by subsection 3 shall be deemed to have been made on all unpatented mining claims unless such reservation is waived by the Minister. 1967, c. 54, s. 6, *part.*

Surface
rights

(5) The holder of a mining claim does not have any right, title or claim to the surface rights of the claim other than the right to enter upon, use and occupy such part or parts thereof as are necessary for the purpose of prospecting and the efficient exploration, development and operation of the mines, minerals and mining rights therein.

Taxation

(6) The holder of an unpatented mining claim is not liable to assessment or taxation for municipal or school purposes in respect of such unpatented mining claim. R.S.O. 1960, c. 241, s. 68 (2, 3).

Taxation

(7) The holder of a licence of occupation or quarry permit issued under this Act or any predecessor thereof is not liable to assessment or taxation for municipal or school purposes in respect of such licence of occupation or quarry permit except with respect to improvements for which he would be liable to assessment or taxation if the lands were held under a patent. 1967, c. 54, s. 6, *part.*

70.—(1) Except as in this Act otherwise provided, the holder of an unpatented mining claim has the right prior to any subsequent right to the user of the surface rights for prospecting and the efficient exploration, development and operation of the mines, minerals and mining rights.

Surface rights on unpatented mining claim

(2) Where the holder of an unpatented mining claim consents to the disposition of surface rights under *The Public Lands Act*, the recorder shall make an entry on the record of the claim respecting the consent, and thereupon the surface rights may be dealt with as provided in *The Public Lands Act*.

Disposition of surface rights
R.S.O. 1970, c. 380

(3) Where the holder of an unpatented mining claim consents to the disposition of surface rights under subsection 2, the Minister may require a survey of such surface rights, and the survey shall be provided at the expense of the person who has acquired the surface rights.

Survey of surface rights

(4) Where an application is made for disposition under *The Public Lands Act* of surface rights on an unpatented mining claim and the holder of the unpatented mining claim does not consent to the disposition and provision for the reservation or exclusion of the surface rights is not otherwise provided for in this Act or any other Act, the Minister may refer the application to the Commissioner.

Where holder does not consent to disposition of surface rights

(5) Where an application under subsection 4 is referred to the Commissioner, he shall, upon giving all interested persons at least ninety days notice and after hearing such interested persons as appear, make an order based on the merits of the application. 1962-63, c. 84, s. 17.

Where application referred to Commissioner

(6) Where surface rights on an unpatented mining claim are required for the use of the Crown or other public use, this section applies *mutatis mutandis*. 1968-69, c. 68, s. 4.

Where surface rights required for public use

71.—(1) The Minister may permit the mining, milling and refining of ore on an unpatented mining claim for the purpose of testing mineral content and may prescribe the conditions for so doing.

Permission to test ore

(2) Permission granted under subsection 1 shall be in writing, shall be for a given period of time and shall cover a given quantity of ore.

Conditions

(3) The end product of such mining, milling and refining, except as provided in subsection 4, shall not be sold or otherwise disposed of until the mining claim or mining claims from which the ore was taken are leased or patented under this Act.

Sale of ore

(4) The Minister may, in writing, prescribe the disposition of the proceeds from the sale of any end product and may require that the proceeds be held by the Crown until title has been

Disposition of proceeds from sale of ore

granted for the mining claim or claims or he may direct that the proceeds be escheated to the Crown in whole or in part. 1967, c. 54, s. 7.

Free assays

72.—(1) Every licensee who stakes out and records a mining claim may obtain from the recorder two free assay coupons on recording it and two additional free assay coupons on recording each forty days work thereafter and on forwarding or delivering, charges prepaid, samples from the mining claim to the Director Laboratory and Research Branch, Department of Mines and Northern Affairs, Toronto, together with the required number of coupons, as provided in the regulations, is entitled to have the samples assayed without charge, but in no case is a licensee entitled to more than eighteen free assay coupons in a licence year. R.S.O. 1960, c. 241, s. 69 (1); 1962-63, c. 84, s. 18; 1970, c. 26, s. 9.

Validity of coupons

(2) Every free assay coupon is valid only for a period of two years after the date of its issue. R.S.O. 1960, c. 241, s. 69 (2).

Where claim, lands or rights abandoned, etc.

73.—(1) Where the holder, licensee, lessee or owner of a mining claim, mining lands or mining rights abandons or surrenders the claim, lands or rights or where the mining claim, mining lands or mining rights are cancelled or forfeited under this Act or any other Act or the regulations thereunder, he may take from the claim, lands or rights any buildings, structures, machinery, chattels, personal property and, except in the case of an unpatented mining claim, any ore or mineral he has extracted therefrom belonging to him and any slimes or tailings not otherwise owned, within six months after the abandonment, surrender, cancellation or forfeiture or within such further time as is fixed by the Commissioner, and, in default of so doing, all such buildings, structures, machinery, chattels, personal property, ore, mineral, slimes and tailings belong to the Crown and may be sold or otherwise disposed of by the Minister upon such terms and conditions as he considers expedient.

Licensee has no rights in buildings, etc., acquired by Crown

(2) The staking or recording of a mining claim does not confer upon the licensee any right respecting buildings, structures, machinery, chattels, personal property, ore, mineral, slimes and tailings acquired by the Crown under subsection 1. 1962-63, c. 84, s. 19.

Improper use of land

74.—(1) Where land is staked out and applied for as a mining claim and it appears that the land is being used other than as mining land or for a purpose other than that of the mineral industry, the Minister may direct the Commissioner to hold a hearing.

Cancellation of claim

(2) Where, upon notice to all persons interested and after hearing such of them as appear, the Commissioner is satisfied that

the land is being used other than as mining land or for a purpose other than that of the mineral industry, he may make an order cancelling the claim, and, on the filing of the order with the recorder for the mining division in which the land is situate, the claim is cancelled and annulled, and the land may be dealt with as provided in this Act. 1962-63, c. 84, s. 20.

75.—(1) Where the Minister recommends the establishment or extension of a townsite on an unpatented mining claim, the Lieutenant Governor in Council may reserve the surface rights on any such claim or parts of any such claim as may be necessary for townsite purposes.

Townsites on unpatented claims

(2) The Lieutenant Governor in Council may make such regulations as he considers necessary for the better carrying out of this section. R.S.O. 1960, c. 241, s. 73.

Regulations

ADDRESS FOR SERVICE

76.—(1) Every application for a mining claim and every other application and every transfer or assignment of a mining claim or of a right or interest acquired under this Act shall contain or have endorsed thereon the place of residence and post office address of the applicant, transferee or assignee, and also, when he is not resident in Ontario, the name, residence and post office address of a person resident in Ontario upon whom service may be made.

Address for service to be on application for claim, etc.

(2) No such application, transfer or assignment shall be filed or recorded unless it conforms with subsection 1.

Irregular documents not to be filed

(3) Another person resident in Ontario may be substituted as the person upon whom service may be made by filing, in the office in which such an application, transfer or assignment is filed or recorded, a memorandum setting forth the name, residence and post office address of such other person, and such a substitution may be made from time to time as occasion requires.

Substituting new agent for service

(4) Service upon the person named as the person upon whom service may be made, unless another person has been substituted for him under subsection 3 and in case of such substitution upon the person substituted, has the same effect as service upon the person whom he represents.

Service upon agent to be sufficient

(5) Subsection 4 applies to every notice, demand or proceeding in any way relating to a mining claim or to mining rights or to any other right or interest that may be acquired under this Act. R.S.O. 1960, c. 241, s. 74.

Application of subsection 4

TRUSTS, AGREEMENTS AND TRANSFERS

77.—(1) Notice of a trust, express, implied or constructive, relating to an unpatented mining claim shall not be entered on the record or be received by a recorder.

Claim "in trust"

Describing
licensee as
trustee, etc.,
effect of

(2) Describing the holder of the mining claim as a trustee, whether the beneficiary or object of the trust is mentioned or not, does not impose upon any person dealing with such holder the duty of making any inquiry as to his power to deal therewith, but the holder may deal with the claim as if such description had not been inserted.

Saving of
rights of
others

(3) Nothing in this section relieves the holder of the mining claim who is in fact a trustee thereof or of any part or share thereof or interest therein from liability as between himself and any person, mining partnership or company for whom he is a trustee, but such liability continues as if this section had not been enacted, nor shall any provision in this Act relieve the holder from any personal liability or obligation. R.S.O. 1960, c. 241, s. 75.

Agreements
and
transfers,
evidence
of

78.—(1) No person is entitled to enforce any claim, right or interest, contacted for or acquired before the staking out, to or in or under any staking out or recording of a mining claim or of any mining lands or mining rights done by another person unless the fact that the first-mentioned person is so entitled is made to appear by a writing signed by the holder of the claim or by the licensee by whom the staking out or recording was done or the evidence of the first-mentioned person is corroborated by some other material evidence, and, where a right or interest is so made to appear, *The Statute of Frauds* does not apply. R.S.O. 1960, c. 241, s. 76 (1); 1962-63, c. 84, s. 21.

R.S.O. 1970,
c. 444

Sales or
transfers
after stak-
ing out

(2) No person is entitled to enforce any contract, made after the staking out, for sale or transfer of a mining claim or any mining lands or mining rights, or any interest in or concerning the same, unless the agreement or some note or memorandum thereof is in writing signed by the person against whom it is sought to enforce the contract or by his agent, thereunto by him lawfully authorized. R.S.O. 1960, c. 241, s. 76 (2).

Transfer,
form of

79. A transfer of an unpatented mining claim or of an interest therein may be in the prescribed form and shall be signed by the transferor or by his agent authorized by instrument in writing. R.S.O. 1960, c. 241, s. 77.

RECORDING DOCUMENTS

Recording
instruments

80. Except as in this Act otherwise expressly provided, no transfer or assignment of or agreement or other instrument affecting a mining claim or a recorded right or interest acquired under this Act shall be entered on the record or received by a recorder unless it purports to be signed by the recorded holder of the claim or right or interest affected or by his agent authorized by recorded instrument in writing, nor shall any such instrument be recorded without an affidavit in the prescribed form, attached to or endorsed thereon, made by a subscribing witness to the instrument. R.S.O. 1960, c. 241, s. 78.

81. After a mining claim or other right or interest acquired under this Act has been recorded, every instrument other than a will affecting the claim or an interest therein is void as against a subsequent purchaser or transferee for valuable consideration without actual notice unless the instrument is recorded before the recording of the instrument under which the subsequent purchaser or transferee claims. R.S.O. 1960, c. 241, s. 79. Priority

82. The recording of an instrument under this Act constitutes notice of the instrument to all persons claiming an interest in the claim subsequent to such recording, notwithstanding any defect in the proof for recording, but nevertheless it is the duty of the recorder not to record except upon the proof required by this Act. R.S.O. 1960, c. 241, s. 80. Recording to be notice

83.—(1) Priority of recording prevails unless before the prior recording there has been actual notice of the prior instrument by the party claiming under the prior recording. R.S.O. 1960, c. 241, s. 81. Where actual notice prevails

(2) Any transfer or other instrument proper to be recorded shall, if all requirements for recording have been met, be deemed to have been recorded at the time that it was received in the office of the recorder, notwithstanding that such transfer or other instrument may not have been immediately entered in the record book. Transfer, etc., deemed to be recorded when received in office of recorder

(3) Where a document is required to be filed with or a fee is required to be paid to a recorder and the document or fee is sent by mail and is received in the office of the recorder after the prescribed time, the recorder may accept the document or fee upon evidence that it was mailed within the prescribed time and that there is no adverse interest. 1962-63, c. 84, s. 22. Filing after the prescribed time

84.—(1) The recorder shall enter upon the record of any unpatented mining claim or other recorded right or interest a note of any order or decision made by him affecting the same, giving its date and effect and the date of the entry, and he shall, upon receiving with the prescribed fee an order or decision of the Commissioner, or an order, judgment or certificate in an appeal from him, or a certified or sworn copy thereof, file the same and enter a note thereof upon the record of the claim or right or interest affected thereby. Recording orders and judgments

(2) In a proceeding calling in question an interest in an unpatented mining claim or other recorded right or interest, the Commissioner or recorder, may issue a certificate in the prescribed form and, upon receipt thereof and payment of the prescribed fee, the recorder shall file and note it as above directed. Recording certificate of *lis pendens*

(3) The filing of a certificate is actual notice to all persons of the proceeding. Filing certificate to be notice

Duration of
certificate of
lis pendens

(4) The certificate and the filing and noting thereof are of no effect for any purpose whatever after the expiration of ten days from the date of filing unless within that time an order continuing the certificate is obtained from the Commissioner or the recorder, and any person interested may at any time apply to the Commissioner for an order vacating the certificate.

Notification
of continu-
ance or
vacating of
lis pendens

(5) On receipt by the recorder of such order, he shall forthwith transmit by registered mail a copy of the order to every recorded holder of an interest in the mining claim. R.S.O. 1960, c. 241, s. 82 (1-4)

Execution
against
claims, etc.

(6) A copy of a writ of execution, certified by the sheriff of the county or district or a bailiff of a small claims court therein to be a true copy of a writ in his hands, may be filed with the recorder, and the recorder, upon receiving the prescribed fee and being given the number or description of the claim, shall enter a note of such execution upon the record of each claim of which the execution debtor is the recorded holder or in which he has a recorded interest, and from and after, but not before, such entry, the execution binds all the right or interest of the execution debtor in the claim, and after such entry the sheriff or bailiff has power to sell and realize upon such right or interest in the same way as goods and chattels may be sold and realized upon under execution, and a transfer from the sheriff or bailiff to the purchaser may, upon the latter becoming, if he is not before, a licensee, be recorded in like manner and with the same effect as a transfer from the execution debtor. R.S.O. 1960, c. 241, s. 82 (6), *amended*.

Certified
copy, fee
therefor

(7) Such certified copy of the writ of execution may be obtained from the sheriff or bailiff on payment of a fee of \$1, which fee, together with the fee paid for recording the execution, shall be added to the execution debt.

Keeping
claim in
good stand-
ing after
entry of
execution

(8) After entry of such an execution upon the record of the claim, the sheriff, bailiff or the execution creditor may do anything that the execution debtor could do to keep the claim or interest in or restore it to good standing, and he is entitled to add the necessary expense thereof to the execution debt.

Discharge of
execution

(9) Such an execution may be discharged by recording a certificate from the sheriff or bailiff that it has been satisfied or by recording a release from the execution creditor or by obtaining and filing an order of the Commissioner directing its removal. R.S.O. 1960, c. 241, s. 82 (7-9).

Fee for
filing
certificate
includes fee
for filing
order

(10) Where the prescribed fee has been paid for filing a certificate under subsection 2, the fee shall be deemed to include the fee for filing any order or orders made by the Commissioner in the proceeding. 1962-63, c. 84, s. 23.

WORKING CONDITIONS

85.—(1) The recorded holder of a mining claim shall, within five years immediately following the recording thereof, perform or cause to be performed thereon work consisting of stripping or opening up mines, sinking shafts or other actual mining operations to the extent of 200 days work, which work shall be performed as follows:

Working
conditions
on mining
claims

1. First period of at least twenty days, not later than one year immediately following the recording of the claim.
2. Second period of at least forty days, not later than two years after date of recording.
3. Third period of at least forty days, not later than three years after date of recording.
4. Fourth period of at least forty days, not later than four years after date of recording.
5. Fifth period of at least sixty days, not later than five years after date of recording. R.S.O. 1960, c. 241, s. 83 (1); 1964, c. 62, s. 6.

(2) The work may be completed in a less period of time than herein specified and, if more work is performed by or on behalf of the recorded holder than is herein required during the first year or in a subsequent year, the excess, upon proof of the work having been performed, shall be credited by the recorder upon the work required to be done during a subsequent year.

Work done
within earlier
period and
allowance
for excess

(3) The recorded holder of a mining claim shall, not later than ten days after each of the periods specified, make a report in the prescribed form as to the work done or caused to be done by him during such period, verified by certificate in the prescribed form, and the report shall show in detail,

Work
reports

- (a) the location, nature and extent of the work;
- (b) the names and addresses of the men who performed the work; and
- (c) the dates upon which each man worked in its performance,

and, in the case of diamond or other core drilling, the report shall be accompanied by a core log in duplicate indicating the footages of the rock types encountered, and the angle and direction of the drill hole, and by a sketch or plan in duplicate fixing the location of the drill hole in relation to the corner posts of the claim.

(4) The recorder, if satisfied that the prescribed work has been duly performed, may grant a certificate in the prescribed form, but he may first, if he considers it proper, inspect or order the inspection of the work or otherwise investigate the question of its

Certificate
of perform-
ance

sufficiency, and such certificate, in the absence of fraud or mistake, is final and conclusive evidence of the due performance of the work therein certified, but where it has been issued in mistake or obtained by fraud the Commissioner has power to revoke and cancel it upon the application of the Crown or an officer of the Department or any person interested.

Decision
final

(5) The decision of the Commissioner as to the due performance of work is final. R.S.O. 1960, c. 241, s. 83 (2-5).

Work to be
performed
on claims

(6) A licensee may perform or cause to be performed on one or more unpatented claims any of the work required to be performed in respect of contiguous unpatented claims recorded in his name or of which he is the optionee of record, and the reports of work and the certificates to be filed in respect of the work shall indicate the claim or claims on which the work was performed and the claim or claims upon which it is to be applied, but in no case, except for work required under subsection 17 of section 104, shall more than 4,000 days work be performed on a claim for application on other claims and at least one day's work must be filed on each claim grouped for a filing of work.

Grouping of
claims for
filing

(7) A recorded holder or an optionee of record may vary the claims grouped under subsection 6 for successive filings of work but the grouping for each filing must meet the requirements of subsection 6.

Work applied
to other
claims

(8) The total amount of work performed on an unpatented claim and applied on other claims is the work assignment.

When work
assignment
voided

(9) The work assignment charged to a claim is voided when the claim is transferred to another licensee or when an option is filed in favour of another licensee, and the new holder or new optionee is entitled to a full work assignment of not more than 4,000 days work with respect to that claim, provided that the requirements of subsection 6 are met.

Claim
reverting
to original
holder

(10) If a previous recorded holder again becomes the recorded holder of a claim, the work assignment charged to the claim is the work assignment that was charged to it at the time that he disposed of the claim.

Lapse of
option

(11) If an option ceases to have effect by virtue of an entry on the record of a claim, the work assignment charged to the claim is the work assignment that was charged to it at the time that the option was filed.

Increase
of work
assignment

(12) Notwithstanding subsection 6, if the work is diamond drilling and the length of the drill hole is greater than 4,000 feet, the licensee may make application to the Minister for an increase in the work assignment for the claim on which the drilling is performed, and the work assignment may be increased by the difference between 4,000 days and the credit to which he would be entitled for the drilling,

- (a) if the Minister issues a certificate in the prescribed form; and
- (b) if the certificate is filed in the office of the recorder before the work is commenced. 1967, c. 54, s. 9.

(13) The construction of houses or roads or other like improvements does not constitute "actual mining operations" within the meaning of this section. R.S.O. 1960, c. 241, s. 83 (7). Certain works not regarded

86.—(1) When the plan and field notes of a survey of a mining claim made under section 117 or 118 are filed with the mining recorder within the prescribed time, the survey counts as forty days work on the surveyed claim. Survey to count as work

(2) On receipt of an affidavit by an Ontario land surveyor that he has made a survey of a mining claim within the period during which work is required by this Act to be done on such claim and his undertaking that he will forward or cause to be forwarded to the recorder, not later than two months after the close of the period for doing the work, plans and field notes of the survey, the recorder may enter upon the record of the claim forty days work and he may cancel the entry in default of receipt of the plans and field notes within such period of two months. before plans filed

(3) Where work has been recorded with the mining recorder under subsection 1 or 2 and the survey of the mining claim does not comply with section 117 or 118 or the regulations, the Minister may direct the mining recorder to cancel the work and thereupon the mining recorder shall cancel the entry on the record. Cancellation of work

(4) Subsection 6 of section 85 does not apply to work recorded under subsection 1 or 2. R.S.O. 1960, c. 241, s. 84 (1-4). Where s. 85, subs. 6, not to apply

(5) Where the length of the drill hole is more than 25 feet, boring by diamond or other core drill counts as work, Diamond or other core drills

- (a) where the core from the drill is less than $\frac{7}{8}$ of an inch in diameter or the length of the drill hole is 100 feet or less, at the rate of one day's work for each 4 feet of boring; and
- (b) where the core from the drill is $\frac{7}{8}$ of an inch or more in diameter and the length of the drill hole is greater than 100 feet, at the rate of one day's work for each foot of boring; and
- (c) where a certificate has been issued under subsection 12 of section 85, in respect of boring in excess of 4,000 feet, at the rate of one and a half days for each foot of boring that is more than 4,000 feet and not more than 5,000 feet and two days for each foot of boring that is more than 5,000 feet,

and, where it is impossible to take core with a core drill through overburden and core is subsequently taken after passage through the overburden, work may be counted as though core was taken for the full length of the drill hole, including the overburden. R.S.O. 1960, c. 241, s. 84 (5); 1968, c. 71, s. 4 (1); 1970, c. 26, s. 10 (1).

Core
specimens

(6) Where core specimens are submitted with the report and core log for the core drilling referred to in subsection 5, and the core specimens,

- (a) are representative of rock types encountered for the hole;
- (b) are not less than 3 inches in length; and
- (c) are taken at intervals of not less than 25 feet throughout the length of the hole and are clearly labelled as to the footage,

each specimen counts as one day's work.

Boring by
other than
core drill

(7) Boring by other than core drill where the length of the bore hole is greater than 200 feet may be counted as work at the rate of one day's work for each 2 feet of boring,

- (a) if the recorded holder files logs of the type and in the manner prescribed for core drilling; and
- (b) if the bore hole is lengthened by core drilling which is reported to the recorder at the same time as the boring by other than core drill. 1968, c. 71, s. 4 (2).

Mechanical
equipment

(8) Work done by mechanical equipment of a type approved by the Minister counts as work at the rate of one day's work in respect of each man necessarily employed in operating such equipment for each three hours of his employment, but credit shall not be given for more than two operators for each of such equipment without the consent of the Minister, and credit shall not be given for more than twelve hours in any day in respect of any operator. R.S.O. 1960, c. 241, s. 84 (7).

Surveys

(9) A geophysical survey, satisfactory to the Minister, of a mining claim may be recorded as work on the claim, subject to,

- (a) ground surveys, at the rate of one day's work in respect of each man necessarily employed in linecutting or chaining for each eight hours of his employment, and at the rate of seven day's work in respect of each man necessarily employed in work relating to the geophysical survey for each eight hours of his employment, but no credit shall be given for more than twelve hours in any day in respect of any man; and
- (b) airborne geophysical surveys at the rate of forty day's work in respect of each mile of continuous recordings,

but not more than a total of eighty day's work may be recorded in respect of each claim, and credit for the work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to the Minister within sixty days of the recording of the work and are approved. 1964, c. 62, s. 7 (1), *part*; 1967, c. 54, s. 10 (1).

(10) Notwithstanding subsections 9, 11 and 12, but subject to the maximum credits permitted therein, if a ground geophysical or a geological or a geochemical survey meets the requirements of the Minister, he may authorize the approval of work credits on the basis of performance and coverage, subject to the limitations prescribed in the requirements, but credit for the work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to the Minister within sixty days of the recording of the work and are approved. 1970, c. 26, s. 10 (2).

Credits for
performance
and coverage

(11) A geological survey, satisfactory to the Minister, of a mining claim may be recorded as work on the claim at the rate of one day's work in respect of each man necessarily employed in linecutting or chaining for each eight hours of his employment, and at the rate of seven day's work in respect of each man necessarily employed in work relating to the geological survey for each eight hours of his employment, not exceeding a total of forty days' work in respect of each claim, but no credit shall be given for more than twelve hours in any day in respect of any man, and credit for the work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to the Minister within sixty days of the recording of the work and are approved. 1964, c. 62, s. 7 (1), *part*; 1967, c. 54, s. 10 (2).

Geological
survey to
count as
work

(12) A geochemical survey, satisfactory to the Minister, of a mining claim may be recorded as work on the claim at the rate of one day's work in respect of each man necessarily employed in linecutting or chaining for each eight hours of his employment and at the rate of seven days' work in respect of each man necessarily employed in work relating to the geochemical survey for each eight hours of his employment, not exceeding a total of forty days' work in respect of each claim, but no credit shall be given for more than twelve hours in any day in respect of any man, and credit for the work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to the Minister within sixty days of the recording of the work and are approved. 1967, c. 54, s. 10 (3).

Geochemical
survey to
count as
work

(13) A radiometric survey shall be deemed to be a geophysical survey for the purposes of this section. 1970, c. 26, s. 10 (3).

Radiometric
surveys

(14) The actual cost of stripping by other than manual labour may be recorded as work on a mining claim at the rate of one day's

Stripping

work for each \$10 so spent not exceeding 100 days work in respect of each claim, but credit for the work shall be cancelled unless proof of the actual cost is submitted to and accepted by the recorder within thirty days of the recording of the work. R.S.O. 1960, c. 241, s. 84 (10); 1964, c. 62, s. 7 (2).

Certain work
excepted
from s. 85,
subs. 6

(15) Subsection 6 of section 85 does not apply to geological, geochemical, radiometric and geophysical work, and for the purposes of this Act, such work shall be deemed to have been performed equally on each claim actually covered by the survey, and shall be recorded accordingly, and in no other way. R.S.O. 1960, c. 241, s. 84 (11); 1967, c. 54, s. 10 (4); 1968, c. 71, s. 4 (5).

Shaft
sinking,
drifting, etc.

(16) Subject to subsection 2 of section 172, shaft sinking, drifting or other lateral work that is at least 10 feet below the surface and the opening of which is at least 5 feet by 7 feet counts as work at the rate of four days' work in respect of each man employed in the work for each six hours of the employment, but no credit shall be given for more than twelve hours in any day in respect of any man. R.S.O. 1960, c. 241, s. 84 (12); 1967, c. 54, s. 10 (5).

Manual
work

(17) Manual work as prescribed in section 85 and not otherwise provided for in this section counts as work at the rate of one day's work for each six hours of each man's employment, but no credit shall be given for more than twelve hours in any day in respect of any man. R.S.O. 1960, c. 241, s. 84 (13).

Beneficiation
studies, etc.,
to count as
work

(18) The Minister may direct that beneficiation studies, analyses, assays, microscopic studies and other types of exploration or development work, not otherwise provided for in this Act, be counted as work at a rate not exceeding one day's work for each \$15 expended,

- (a) if the Minister is satisfied with the type of work and the manner of its execution; and
- (b) if full reports, maps and proof of expenditure are filed in duplicate with the Minister. 1964, c. 62, s. 7 (3).

Expenditure
where
coupons
used

(19) Where work submitted under subsection 18 has been paid for with a coupon or coupons obtained under section 72, the expenditure represented shall be calculated according to the schedule of charges of the Laboratory and Research Branch, Department of Mines and Northern Affairs. 1968, c. 71, s. 4 (6); 1970, c. 26, s. 10 (4).

Work
credits

(20) Notwithstanding subsection 3 of section 85, assessment work credits requiring the approval of the Minister under this section are final. 1967, c. 54, s. 10 (6).

Airborne
geophysical
certificate

87.—(1) The Minister may issue to the holder of a mining claim or mining claims an airborne geophysical certificate for the mining claim or mining claims, if,

- (a) the claim or claims lie within the area covered by an airborne geophysical survey that was not previously filed with the Department and that was conducted prior to the staking of the claim or claims;
- (b) the survey covers an area at least four times the area of the claim or claims;
- (c) full reports and plans in duplicate with respect to the whole area covered by the survey are submitted to the Minister, within six months after the recording of the claim or claims, in the same form and in the same manner as though submitted under subsection 9 of section 86; and
- (d) the flight lines are not more than one-quarter mile apart and approximately parallel.

(2) Notwithstanding subsection 1 of section 85, if the claim holder files an airborne geophysical certificate issued under subsection 1 with the recorder of the mining division in which the claim or claims are situate not later than sixty days after the date of issue of the certificate, the recorder shall so indicate on his records, and the time for performing the first and all subsequent periods of work for the claim or claims listed in the certificate shall fall due one year later than the times prescribed in subsection 1 of section 85. 1964, c. 62, s. 8.

Extension of
time for
performance
of work

88.—(1) In computing the time within which work upon a mining claim is required to be performed,

Computing
time for
performance
of work
conditions

- (a) all time which by an order in council or regulation is excluded;
- (b) if a permit under *The Forest Fires Prevention Act* that is necessary for the beginning or carrying on of the work under this Act is refused or the performance of such work is prohibited under that Act, the time during which such refusal or prohibition subsists, if the holder provides the recorder with satisfactory evidence of such prohibition; and
- (c) time during which proceedings concerning the claim are pending, where the Commissioner or recorder is satisfied that any delay in settling the matter is not the fault of the holder,

R.S.O. 1970,
c. 179

shall be excluded.

(2) Where time is excluded under subsection 1, the Commissioner may make an order prescribing the date or dates by which the next or any subsequent periods of work shall be performed and reported. 1962-63, c. 84, s. 24.

Order by
Commis-
sioner

89.—(1) If by reason of pending proceedings or incapacity from illness of the holder of a mining claim the work is not

Extension
or time
for work

performed or the metal tags have not been affixed or the money required for patent or lease is not paid within the prescribed time, the recorder may extend the time for the performance of the work or the affixing of the metal tags or the payment of the money for periods not exceeding six months.

Medical
certificate

(2) Where the work has not been performed or the metal tags have not been affixed or payment for patent or lease has not been made because of the incapacity from illness of the holder of the claim, the recorder may extend the time only upon the production and filing with him of a certificate of a duly qualified medical practitioner indicating that the holder has by reason of illness been rendered incapable of performing the work or affixing the metal tags or paying the money.

Work
done during
extension

(3) Work performed within any such extended period shall be deemed to have been duly performed under section 85. R.S.O. 1960, c. 241, s. 86.

Proportion-
ate contri-
bution by
co-owners

90. Where two or more persons are the holders of an unpatented mining claim, each of them shall contribute proportionately to his interest, or as they otherwise agree between themselves, to the work required to be done thereon or to a survey, patent or the first year's rental of a lease, and, in case of default by any holder, the Commissioner, upon the application of any other holder and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest of the defaulter in the other co-owners or in any of them upon such terms and conditions and in such proportions as he considers just. R.S.O. 1960, c. 241, s. 87 (1).

Charge
of person
doing work
on mining
claim

91. Where the holder of an interest in a mining claim has made default in payment for work performed thereon by a person not the holder of an interest in the mining claim, the Commissioner, upon the application of such person and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest in the mining claim of the holder in default, or any part of such interest, in the applicant. R.S.O. 1960, c. 241, s. 88.

ABANDONMENT

Right of
licensee to
abandon

92.—(1) A licensee may abandon a mining claim at any time by giving notice in writing in the prescribed form to the recorder of his intention so to do.

Entry of
note of
abandon-
ment

(2) The recorder shall enter a note of the abandonment upon the record of the claim with the date of the receipt of the notice and shall forthwith post up in his office a notice of the abandonment, marked with the date of the posting up thereof, and thereupon all interest of the licensee in the claim ceases and determines, and the claim is, on and after, but not before, the eleventh day after such posting up, inclusive of the day of posting

up, open for prospecting and staking out. R.S.O. 1960, c. 241, s. 89.

93. Non-compliance by the licensee with any requirement of this Act as to the time or manner of the staking out and recording of a mining claim or with a direction of the recorder in regard thereto, within the time limited therefor, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Commissioner, be forthwith opened to prospecting and staking out. R.S.O. 1960, c. 241, s. 90.

Effect of non-compliance with Act or direction of recorder as to abandonment

FORFEITURE

94.—(1) Except as provided by section 95, all the interest of the holder of a mining claim before its patent has issued ceases without any declaration, entry or act on the part of the Crown or by any officer, and the claim is open for prospecting and staking out,

Forfeiture of mining claim

- (a) if the licence of the holder has expired and has not been renewed;
- (b) if, without the consent in writing of the recorder or Commissioner, or for any purpose of fraud or deception or other improper purpose the holder removes or causes or procures to be removed any stake or post forming part of the staking out of such mining claim, or for any such purpose changes or effaces or causes to be changed or effaced any writing or marking upon any such stake or post;
- (c) if the prescribed work is not duly performed;
- (d) if any report under subsection 3 of section 85 is not made and deposited with the recorder as therein required;
- (e) if the application and payment for the lease required by section 104 are not made within the prescribed time. R.S.O. 1960, c. 241, s. 91 (1); 1965, c. 73, s. 3.

(2) No person, other than the Minister or an officer of the Department or a licensee interested in the property affected, is entitled to raise any question of forfeiture except by leave of the Commissioner, and proceedings raising questions of forfeiture shall not be deemed to be or be entered as disputes under section 65. R.S.O. 1960, c. 241, s. 91 (2).

Proceedings as to forfeiture

95.—(1) Where forfeiture or loss of rights occurs under subsection 7 of section 63 or subsection 1 of section 94 and,

Relief against forfeiture

- (a) where the licence of the claim holder has expired, the Commissioner may make an order upon such terms as he considers just relieving the claim from forfeiture and authorizing a special renewal of the licence on payment of twice the prescribed fee; or

- (b) where the prescribed work is not performed within the time stipulated in subsection 1 of section 85, the Commissioner, within six months of the forfeiture, may make an order or orders upon such terms as he considers just relieving the claim from forfeiture and extending the time for performing the work; or
- (c) where the report of work is not filed within the time prescribed in subsection 3 of section 85, the Commissioner, within six months of the forfeiture, may make an order upon such terms as he considers just relieving the claim from forfeiture and authorizing the filing of a proper report of work; or
- (d) where application and payment for the lease are not made within the time prescribed in subsection 2 of section 104, the Commissioner, within six months of the forfeiture, may make an order, upon such terms as he considers just, relieving the claim from forfeiture and extending the time for applying and paying for the lease, but in no case shall the time for so doing be extended beyond five years of the time prescribed in subsection 2 of section 104; or
- (e) where the metal tags have not been affixed to the corner posts of the claim within the time prescribed in subsection 5 of section 63, the Commissioner may make an order, upon such terms as he considers just, relieving the claim from forfeiture and granting an extension of the time for affixing the metal tags to the corner posts, but only one such extension shall be granted, and, where the Commissioner extends the time for affixing metal tags beyond the first anniversary of the date of recording of the claim, the holder of the claim shall pay to the recorder, in addition to the fee prescribed in the Schedule, a fee of \$5 a claim for each year or part of a year of the extension beyond the anniversary date. R.S.O. 1960, c. 241, s. 92 (1); 1962-63, c. 84, s. 26 (1, 2); 1965, c. 73, s. 4 (1).

Extension
of time

(2) If application is made to the Commissioner within thirty days before the time forfeiture or loss of rights would occur, he may make an order or orders granting an extension of time in respect of one or both of the following:

1. For affixing the metal tag to the corner posts of the claim.
2. For performing any work required to be performed.

Tags under
section 64

(3) Paragraph 1 of subsection 2 does not apply to metal tags required to have been affixed under section 64. R.S.O. 1960, c. 241, s. 92 (2, 3).

Idem

(4) Within thirty days before forfeiture or loss of rights would

occur, the Commissioner may make an order extending the time for applying and paying for the lease, but in no case shall the time for so doing be extended beyond five years of the time prescribed in subsection 2 of section 104. 1965, c. 73, s. 4 (2).

(5) Where the Commissioner extends the time for performing work, the report of its performance shall be filed within such extended time. Filing of report

(6) Where forfeiture or loss of rights has occurred, the lands, mining rights or mining claims concerned are not open for staking until 7 o'clock in the forenoon of the day immediately following that upon which forfeiture or loss of rights occurred. Restaking

(7) No order made by the Commissioner under this section comes into effect until it is filed in the office of the mining recorder for the mining division in which the claims are situate and until the prescribed fees are paid. Filing of orders

(8) The recorder, upon a forfeiture or abandonment of or loss of rights in a mining claim, shall forthwith enter a note thereof, with the date of entry, upon the record of the claim and mark the record of the claim "Cancelled", and shall post up forthwith in his office a notice of cancellation. R.S.O. 1960, c. 241, s. 92 (5-8). Cancellation of record

(9) Notwithstanding subsection 7, an order made by the Commissioner under clause *a* of subsection 1 may be filed in the office of any recorder, but such order does not come into force until it is so filed and until the prescribed fees are paid. Filing of relief from forfeiture order

(10) Notwithstanding clause *a* of subsection 1, no fee is payable for a special renewal of a licence issued under subsection 5 of section 28. 1962-63, c. 84, s. 26 (3). No fee for special renewal of licence under s. 28, subs. 5

(11) Where the licence of the claim holder has expired and there is no adverse interest, a recorder may, within three months of the expiry, make an order relieving the claim from forfeiture and authorizing special renewal of the licence on payment of twice the prescribed fee, and such order has the same effect as though issued under clause *a* of subsection 1. 1967, c. 54, s. 11. Relief against forfeiture

96. Where the interest of a joint holder has ceased by reason of the expiration of his licence, such interest, if the Commissioner so directs, passes to and vests in the other holders in proportion to their interests in the claim. R.S.O. 1960, c. 241, s. 93. Interest of joint holder on expiry of his licence

97. Where a licensee in whose name a mining claim has been staked out dies before the claim is recorded or where the holder of a claim dies before issue of the patent or lease for the claim, no other person is, without leave of the Commissioner, entitled to stake out or record a mining claim upon any part of the same lands or to acquire any right, privilege or interest in respect thereof within twelve months after the death of such licensee or holder, Death of licensee or holder

and the Commissioner may at any time make such order as he considers just for vesting the claim in the representative of such holder and extending the time for performing the work and applying for patent or lease, notwithstanding any lapse, abandonment, cancellation, forfeiture or loss of rights under any provision of this Act. R.S.O. 1960, c. 241, s. 94.

INSPECTION OF CLAIMS

Inspection
by Commis-
sioner,
recorder or
inspector

98.—(1) The Commissioner or the recorder may inspect or order an inspection of, and an inspector or other officer appointed by the Minister may inspect, a mining claim at any time with or without notice to the holder for the purpose of ascertaining whether this Act has been complied with, but after the granting of the certificate of record no such inspection shall, except by order of the Commissioner, be made for the purpose of ascertaining whether the claim has been staked out in the prescribed manner.

Application
for re-
inspection

(2) Unless notice of the inspection has been given to the holder of the claim at least seven clear days prior thereto, either personally or by registered mail addressed to him at his address appearing on record in the recorder's books, he may apply to the Commissioner or to the recorder for a reinspection and it shall be granted if it appears that the holder of the claim has been prejudiced by the want of notice and every such application for reinspection shall be made to the Commissioner or to the recorder within fifteen days of the entry of the decision on the books of the recorder or within such further period not exceeding fifteen days as the Commissioner allows.

View or
inspection
in disputes,
appeals, etc.

(3) The Commissioner or recorder may in any dispute, appeal or other proceeding before him make or order, with or without notice, a view or inspection of any mining claim or of any lands or other property. R.S.O. 1960, c. 241, s. 95.

Filing and
entry of
report of
inspection

99.—(1) A report of each inspection, except when made merely for the purpose of a dispute, appeal or other proceeding, shall be made in writing by the inspecting officer and shall be filed in the office of the recorder, who shall forthwith enter upon the record of the claim a note stating the effect of the report and the date of the entry.

Cancelling
claim upon
report

(2) If the recorder is of opinion that upon the report the claim should be cancelled, he shall mark the record of the claim "Cancelled" and affix his signature or initials and shall by registered letter mailed not later than the next day notify the holder of the claim and the disputant and other interested parties, if any, of the receipt and effect of the report, and where the claim is cancelled in consequence of the report, the notice shall so state.

Appeal from
cancellation

(3) An appeal from the cancellation of the claim may be taken to the Commissioner by the holder of the claim or by the disputant or other interested party, within the time and in the manner provided by section 148.

(4) Upon the cancellation of a claim under this section, the recorder shall forthwith post up in his office a notice of the cancellation, and the land or mining rights comprised in such claim are thereupon, unless withdrawn from prospecting and staking out, again open to prospecting and staking out, but such staking out is subject to the result of an appeal by a licensee whose claim has been cancelled. R.S.O. 1960, c. 241, s. 96.

Effect of
cancellation

100. The holder of a mining claim or the disputant or other person interested is entitled on payment of the prescribed fee to receive from the recorder a certified copy of any report of inspection of the claim filed with him. R.S.O. 1960, c. 241, s. 97.

Right of
holder to
copy of
report

SURFACE RIGHTS COMPENSATION

101.—(1) Where the surface rights of land have been granted, sold, leased or located with reservation of mines, minerals or mining rights to the Crown, or where land is occupied by a person who has made improvements thereon that in the opinion of the Minister entitle him to compensation, a licensee who prospects for mineral or stakes out a mining claim or an area of land for a boring permit or carries on mining operations upon such land, shall compensate the owner, lessee, locatee or occupant for all injury or damage that is or may be caused to the surface rights by such prospecting, staking out or operations, and in default of agreement the amount and manner and time of payment of compensation shall be determined by the Commissioner upon application to him after notice to the persons interested, and, subject, where the amount awarded exceeds \$1,000, to appeal to the Court of Appeal, his order is final and may be enforced as provided in section 145. R.S.O. 1960, c. 241, s. 98 (1), *amended*.

Right of
owner of
surface
rights to
compensa-
tion

(2) The Commissioner may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further prospecting, staking out or working by such licensee or any person claiming under him.

Prohibiting
work pending
settlement

(3) Where an order is made prohibiting the prospecting, staking out or working of a mining claim under subsection 2, no other licensee has the right to prospect or stake out a mining claim to the prejudice of the prohibited licensee while the proceeding is pending.

Other
licensees not
to prospect,
etc. pending
proceedings

(4) The compensation is a special lien upon any mining claim or other right or interest acquired by the licensee or any person claiming under him in the land so prospected, staked out or worked, and no further prospecting, staking out or working, except by leave of the Commissioner, shall be done by the licensee or any person claiming under him after the time fixed for the payment or securing of the compensation unless the compensation has been paid or secured as directed. R.S.O. 1960, c. 241, s. 98 (2-4).

Lien for
compensa-
tion

Reduction in
area of claim

102.—(1) The Commissioner or the recorder may reduce the area of a mining claim staked out where the surface rights have been granted, sold, leased or located, if in his opinion an area less than the prescribed area is sufficient for working the mines and minerals therein.

Exclusion
of part of
surface rights

(2) The Commissioner or the recorder may exclude from any mining claim such part of the surface rights as may be necessary for the occupation and utilization of buildings or improvements erected or made thereon prior to the time the claim was staked out. R.S.O. 1960, c. 241, s. 99.

ISSUE OF PATENT OR LEASE FOR MINING CLAIM

Application
of section

103.—(1) This section applies to leases of mining claims made before the 25th day of March, 1964. 1964, c. 62, s. 9 (2), *amended*.

Application
of s. 46,
subss. 3-7

(2) Subsections 2, 3, 4, 5, 6 and 7 of section 46 apply *mutatis mutandis* to leases and renewals thereof under subsection 1.

Lease under
s. 104

(3) The holder of a lease to which this section applies may, upon application therefor in writing and upon the surrender of his lease, be issued a lease under section 104, and the rental for each year in the term of the lease shall be that prescribed by section 104 for years subsequent to the first year of a term under that section. 1962-63, c. 84, s. 27, *part*.

Right to
lease of
claim

104.—(1) Upon compliance with this Act and upon payment of the rent for the first year, the holder of a mining claim is entitled to a lease of the claim.

Application
for lease

(2) The application and payment for a lease shall be made to the recorder within one year from the date upon which all work on a mining claim is required to be performed, and the application shall be accompanied by a certificate of record as provided in section 66 and a certificate of the complete performance of working conditions as provided in subsection 4 of section 85.

Term
of lease

(3) A lease under this section shall be for a term of twenty-one years at a rental payable in advance of \$1 an acre for the first year and 25 cents an acre for each subsequent year, the minimum rental being \$10 for the first year and \$5 for each subsequent year.

Lease of
mining
rights

(4) The holder of a mining claim may elect to apply for a lease of the mining rights only.

Rental

(5) Where a lease under this section is for the mining rights only, the rental is \$1 an acre for the first year and 10 cents an acre for each subsequent year, the minimum rental being \$10 for the first year and \$4 for each subsequent year.

(6) Where the surface rights on part of a claim are excluded in a lease under this section, the rental prescribed in subsection 3 applies to the part of the claim including the surface rights, and the rental prescribed in subsection 5 applies to the part of the claim excluding the surface rights, but the total rental shall not be less than the minimum rental prescribed in subsection 3.

Rental where surface rights on part of claim excluded

(7) Subject to subsections 9, 10 and 11, every lease under this section may be renewed for further terms of twenty-one years, and the renewal shall be dated from the day following the expiration of the lease or the last renewal thereof, but application for renewal shall be made within ninety days of the expiry of the lease or last renewal thereof or within such further period as the Minister, in the circumstances of the case, considers proper. 1962-63, c. 84, s. 28, *part*; 1964, c. 62, s. 10.

Lease renewable

(8) The annual rental for a renewal lease, payable in advance, is \$1 an acre for both surface and mining rights and 50 cents an acre for mining rights only, but the minimum annual rental shall be \$10. 1968, c. 71, s. 5.

Rental for renewal of lease

(9) The Minister may refuse to renew a lease issued under this section or may require the applicant to show cause why a renewal should be granted.

Minister may refuse to renew lease

(10) The Minister may refer an application for renewal of a lease to the Commissioner, who shall, upon notice to all interested persons and after hearing such of them as appear, report to the Minister thereon with his recommendations.

Application referred to Commissioner

(11) Where payment of the rental under any such lease is in arrears for two years or more, the lease may be terminated by an instrument in writing.

Termination of lease for arrears of rent

(12) Where application for renewal of a lease is not made within the time prescribed by subsection 7 or where a renewal of a lease is refused under subsection 9 or where a lease has been terminated under subsection 11, the Minister may cause a notice of termination to be registered in the proper land titles or registry office, and the master of titles or registrar of the registry division, as the case may be, shall, upon receipt of the notice, duly register it, and thereupon all the interests of the lessee, his heirs, executors, administrators and assigns shall be deemed to have ceased and determined, and the lands included in such lease are reverted in the Crown freed and discharged from every claim.

Notice of termination of lease

(13) Upon registration of the notice in the proper land titles or registry office, *The Land Titles Act* or *The Registry Act*, as the case may be, ceases to apply to the lands, and the master of titles or the registrar of the registration division shall note that fact in his register in red ink.

Registration of notice of termination R.S.O. 1970, cc. 234, 409

Lands vested
in Crown on
termination
of lease

(14) When a lease is terminated under this section, the lease and all rights and powers therein contained, as well as all rights and claims of the lessee, his heirs, executors, administrators or assigns in or to the lands covered by the lease, cease, and such lands are vested in the Crown, freed and discharged from every claim and are not open for prospecting, staking out or leasing until reopened by the Lieutenant Governor in Council.

Transfer of
lease or
renewal

(15) A lease or renewal thereof or the term or terms thereby created is not transferable without the written consent of the Minister or an officer duly authorized by him.

Disposition
of surface
rights
reserved in
a lease or
renewal
R.S.O. 1970,
c. 380

(16) Any surface rights reserved in a lease or renewal thereof may be dealt with under Part VII or under *The Public Lands Act* or the regulations made thereunder. 1962-63, c. 84, s. 28, *part*.

Rental
where
area of
mining
claim
exceeds
prescribed
area

(17) Where the area of the mining claim exceeds by more than five acres the area prescribed for a mining claim in section 50 and the claim is not reduced in size under section 119, the rental per acre of the area in excess of the area so prescribed is twice the rental provided for in this Act, and there shall be performed at least five days work per acre for the excess area.

Contiguous
claims held
by the same
licensee

(18) Where there is a group of contiguous claims held by the same licensee and their average area does not exceed by more than five acres the area prescribed for a mining claim in section 50, the Minister may direct that subsection 17 does not apply.

Exceptions

(19) Subsection 17 of this section and subsection 6 of section 117 do not apply to the rental for renewal leases.

Where
additional
work is
licensee

(20) Where additional work is required under subsection 17, the Minister may prescribe the time within which such work is to be performed and recorded, and application and payment for lease shall be made within the time so prescribed. 1965, c. 73, s. 5.

Right to
patent

105.—(1) Subject to subsection 3, where a holder of a lease issued under section 46, 103 or 104 produces evidence, satisfactory to the Minister, that he is producing mineral in substantial quantities and production has been continuous for more than one year, he is entitled, upon application in writing therefor and upon the surrender of his lease, to a patent of the lands or mining rights held under lease.

Application
for patent

(2) Application for a patent shall be in the prescribed form and shall be accompanied by the purchase price at the rate of \$10 an acre for both surface and mining rights or \$5 an acre for the mining rights only, as the case may be.

Lease of
land under
navigable
water

(3) Where land consists of land under navigable water, a patent shall not be granted, but, upon application therefor in writing and upon the surrender of his lease, the lessee is entitled to a new lease renewable in perpetuity for periods of twenty-one

years, and every renewal shall date from the day following the expiration of the lease or last renewal thereof if application therefor is made within ninety days of the expiration of the lease or the last renewal thereof or within such further period as the Minister, in the circumstances of the case, considers proper.

(4) The rental for a lease or renewal lease under subsection 3 shall be as prescribed in subsection 8 of section 104. Rental

(5) Subsections 11, 12, 13, 14 and 15 of section 104 apply *mutatis mutandis* to leases and renewals thereof under this section. 1962-63, c. 84, s. 28, *part*. Application of sec. 104

106.—(1) Where the lessee or owner of mining rights, or the holder of a mining licence of occupation, requires the use of surface rights lying within or outside the limits of lands for which he has a lease, patent or licence of occupation for the mining rights for the disposal of tailings or waste material or for the erection of a shaft or buildings for mining or mining purposes, or for any other purpose essential to mining or mining exploration, the Minister may lease to him any available surface rights. Lease of surface rights

(2) Application for a lease of surface rights shall be made in writing to the Minister in the prescribed form, and the applicant shall furnish such particulars as the Minister requires, including, Application for lease of surface rights

- (a) a statement of the particular purposes for which the surface rights are to be used;
- (b) an adequate description and plan or sketch of the area applied for;
- (c) the first year's rental; and
- (d) proof of ownership, or, in the case of a licence of occupation, proof that the applicant is the holder of the licence of occupation, of the mining lands or mining rights that are the basis of the application.

(3) The Minister may require the applicant to furnish a survey by an Ontario land surveyor, and the cost of the survey shall be borne by the applicant. Survey

(4) The annual rental of a lease or renewal under this section is \$1 an acre, payable in advance. Rental

(5) A lease issued under this section shall be for a term of twenty-one years, but, where the mining lands or mining rights that are the basis of the application are held under a mining lease, the term shall be conterminous with the mining lease. Term of lease

(6) Subsections 7, 8, 10, 11, 12, 13, 14 and 15 of section 104 apply *mutatis mutandis* to leases issued under this section, but, where the mining lands or mining rights that are the basis of the application are held under a mining lease, the renewal term shall be conterminous with the mining lease. Application of s. 104, subss. 7, 8, 10-15

Termination
of lease
where lands
forfeited

(7) Where the mining lands or mining rights that are the basis for a lease issued under this section are revested in or are forfeited or revert to the Crown, the lease is forfeited, and subsections 12, 13 and 14 of section 104 apply.

Holder of
lease and
holder of
land to be
same person

(8) Where the holder of a lease issued under this section ceases to be the holder of the lands or mining rights in respect of which the lease was issued, the lease is forfeited, and subsections 12, 13 and 14 of section 104 apply. 1962-63, c. 84, s. 28, *part*.

Lease void
where lands
used other
than for
mining
industry

107. The lands, surface rights or mining rights held under a lease that has been or will be issued under this Act shall be used solely for the purposes of the mining industry, and, in default thereof and on the recommendation of the Commissioner, the Lieutenant Governor in Council may declare the lease void, and subsections 12, 13 and 14 of section 104 apply. 1962-63, c. 84, s. 28, *part*.

Reserva-
tions, etc.,
in leases

108.—(1) Every lease issued under this Act shall contain the following reservations or provisions:

Reservation
for roads

1. Provided that nothing whatsoever herein contained shall prevent or interfere with the free user of any public or travelled road or highway crossing the hereinbefore described premises.

Reservation
for power,
petroleum,
etc.

2. Reserving unto Us, Our Heirs and Successors such use of the land hereby demised for all such works as may be necessary for the development of water power and the development, transmission and distribution of electrical power, natural gas, petroleum and petroleum products, including the construction, maintenance and operation of roads, railroads, transmission lines and stations, flumes, pipelines, dams, power houses and other works and structures without any liability by Us to the Lessee.

Reservation
for railways

3. Reserving the right to grant without compensation to any person or corporation the right-of-way necessary for the construction and operation of one or more railways over or across the lands herein leased without let or hindrance from the Lessee where such railway or railways shall not manifestly or materially interfere with the mining operations carried on upon the said premises.

Reservation
for
navigable
waters

4. Saving, Excepting and Reserving unto Us, Our Heirs and Successors the free use, passage and enjoyment of, in, over and upon all navigable waters which shall or may hereafter be found on or under or to be flowing through or upon any part of the said parcel or tract of land hereby demised as aforesaid and reserving also right of access to the shores of all rivers, streams and lakes for all vessels, boats and persons, together with the

right to use so much of the banks thereof not exceeding one chain in depth from the highwater mark as may be necessary for fishery or public purposes.

Provided that, should the premises herein described or any part thereof be covered by navigable waters, this lease shall be subject to the provisions of the *Navigable Waters Protection Act* (Canada), *The Beds of Navigable Waters Act* and *The Lakes and Rivers Improvement Act*.

R.S.C. 1952,
c. 193
R.S.O. 1970,
cc. 41, 233

5. Provided that nothing herein contained shall in any manner restrict fishing or fishing rights in any navigable waters covering the premises hereby demised and that the said Lessee shall not do any act resulting in damage to fishing or the fishing industry in the said waters or to nets or other appliances used in fishing in such waters.

Reservation
for fishing

6. Provided that these presents shall not vest in the Lessee any right, claim or title to the land under navigable waters which may be included within the limits of the herein described premises, but the Lessee shall have the exclusive right to extract the minerals therefrom during the term of these presents.

Reservation
for land
under
navigable
waters

(2) Item 2 of subsection 1 does not apply to a lease of the mining rights only.

Where
item 2
does not
apply

(3) The Minister may direct the inclusion of other reservations or provisions provided for in this Act or not inconsistent with the intent of this Act. 1967, c. 54, s. 12.

Other
reservations

(4) The Minister may omit reservations or provisions contained in subsection 1 from a lease issued under section 106 where such reservations or provisions are contrary to the purpose of the lease. 1968-69, c. 68, s. 5.

Omission
of reserva-
tions, etc.

109.—(1) Every patent or lease issued under this Act shall contain a reservation for road purposes of 10 per cent of the surface rights of the land granted or leased, as the case may be, and the Crown or its officers or agents may lay out and construct roads where considered proper on the lands so granted or leased. R.S.O. 1960, c. 241, s. 102 (1).

Reservation
for roads

(2) Every patent or lease issued under this Act shall contain a reservation of the surface rights on and over any public or colonization road or any highway crossing the land granted or leased at the date of issue of the patent or lease.

Reservation
of surface
rights

(3) Subsections 1 and 2 do not apply to patents or leases of the mining rights only.

Subss. 1, 2,
not to
apply to
mining
rights

(4) Where a patent or lease has been issued under this Act or any predecessor thereof containing a reservation for road purposes of 5 per cent or of 10 per cent of the lands granted, and the Crown or its officers or agents did not occupy lands under such

Reservation
of land
to read as
reservation
of surface
rights

reservation, prior to the 1st day of May, 1963, for laying out and constructing roads, such reservation shall now read as a reservation of 5 per cent of the surface rights or 10 per cent of the surface rights, as the case may be. 1962-63, c. 84, s. 30.

Form
of patent

110. Every patent of Crown lands or mining rights by which it is intended to vest in the patentee the mines and minerals therein or a part thereof or any rights in connection therewith shall state that it was issued under this Act or the former Act under which it was issued. R.S.O. 1960, c. 241, s. 103, *amended*.

Disposal of
surface
rights

111.—(1) In a patent or lease of a mining claim, the Minister shall reserve all surface rights and other rights excluded by or withdrawn under this Act or that have otherwise been alienated by the Crown.

Idem
R.S.O. 1970,
c. 380

(2) Any surface rights reserved under this section may be dealt with under Part VII or under *The Public Lands Act* or the regulations made thereunder. 1964, c. 62, s. 11.

Patents
issued under
this Act
to vest
minerals

112.—(1) Every patent of Crown lands that purports to be issued under this Act, unless it is otherwise expressly stated, vests in the patentee of the estate thereby granted all title of the Crown in such lands and all mines and minerals therein. R.S.O. 1960, c. 241, s. 105.

Application
of
R.S.O. 1970,
c. 85

(2) Notwithstanding section 19 of *The Conveyancing and Law of Property Act*, where a patent or lease of a mining claim was or is issued under this Act on or after the 1st day of July, 1914, and the patent or lease reserves the surface rights, section 16 of *The Conveyancing and Law of Property Act* applies if the surface rights were the property of the Crown and were not applied for or occupied at the time that the mining claim was staked out and recorded. 1962-63, c. 84, s. 32.

Condition
of patent
ores to be
treated in
Canada

113.—(1) All lands, claims or mining rights patented, leased or otherwise disposed of under this or any other Act or by any authority whatsoever are subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined in Canada so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the Lieutenant Governor in Council may declare the lease, patent or other form of title of such lands, claims or mining rights to be void, and the order in council so declaring shall be registered in the office of the proper master of titles or registry office, as the case may be, or in the case of a licence of occupation, filed in the Minister's office, whereupon such lands, claims or mining rights revert to and become vested in Her Majesty, Her heirs and successors, freed and discharged of any interest or claim of any other person. 1968-69, c. 68, s. 6, *part*.

(2) For the purposes of subsection 1, the Minister may determine the stage of refinement at which any mineral substance is refined metal or other product suitable for direct use in the arts without further treatment. 1970, c. 26, s. 11. Idem

(3) The Lieutenant Governor in Council may exempt any lands, claims or mining rights from the operation of this section for such period of time as seems proper. Exemptions

(4) Where there is any conflict between the provisions of this section and the provisions of any general or special Act, the provisions of this section prevail. 1968-69, c. 68, s. 6, *part*. Where conflict, section prevails

114.—(1) Every patent or lease of Crown lands issued under this Act shall contain a reservation to the Crown of all timber and trees standing, being or hereafter found growing upon the lands thereby granted or leased, and of the right to enter upon such lands to carry on forestry, to cut and remove any timber or trees thereon, and to make necessary roads for such purposes. Reservation of trees and right of entry

(2) The rights reserved in subsection 1 may be exercised by any person holding a licence or permit from the Crown when authorized to do so by the Minister of Lands and Forests. Exercise of rights reserved

(3) All timber and trees on Crown lands that have been staked out and recorded under this Act remain the property of the Crown, and the Crown may enter upon such lands to carry on forestry, to cut and remove any timber or trees thereon, and to make necessary roads for such purpose. Ownership of trees remains in Crown

(4) Notwithstanding subsections 1 and 3 and subject to subsections 5 and 6, the recorded holder of a mining claim staked on Crown lands or the owner or lessee of lands acquired under this Act may cut such trees on the lands so staked or acquired as may be necessary for building, fencing or fuel purposes or for any other purpose necessary for the development or working of the minerals thereon. Conditions under which holder, owner or lessee may cut trees

(5) Where a licence or permit from the Crown to cut timber on the land has not been granted, the recorded holder, owner or lessee may, on application to the Minister of Lands and Forests, be granted permission to cut and use the trees for the purposes mentioned in subsection 4 either without payment or on such terms and conditions as the Minister of Lands and Forests imposes. Idem

(6) Where a licence or permit from the Crown to cut timber on the lands has been granted, the recorded holder, owner or lessee shall compensate the timber licensee or permittee for the trees cut or used by him. Idem

(7) Where a dispute arises between the recorded holder, owner or lessee and the timber licensee or permittee as to the value or quantity of the trees cut or used under subsection 6, the Minister of Lands and Forests shall determine the dispute and his decision is final. Determination of disputes

Holder, etc.,
of mining
rights not
to cut trees

(8) This section does not confer upon the recorded holder, owner or lessee of the mining rights any right to cut trees upon the lands on which he has staked or acquired only the mining rights. R.S.O. 1960, c. 241, s. 107.

Cancellation
of erroneous
patents

115. Where letters patent, leases, licences or other instruments of title have been issued to or in the name of the wrong person through mistake, or contain any clerical error or misnomer, or a wrong description of the land intended to be granted, the Deputy Minister, if there is no adverse claim and whether or not the land has been registered under *The Land Titles Act* or *The Registry Act*, may direct the defective instrument to be cancelled and a correct one to be issued in its stead and the corrected instrument shall relate back to the date of the one so cancelled and has the same effect as if issued on the date of the cancelled instrument. R.S.O. 1960, c. 241, s. 108.

R.S.O. 1970,
cc. 234, 409

Surveys
under
annulments

116. Where patents, leases, licences or other instruments of title have been issued under this Act for any land or mining rights affected by an annulment under subsection 1 of section 11 of *The Public Lands Act*, the Deputy Minister, whether or not the land has been registered under *The Land Titles Act* or *The Registry Act*, may cause such instrument of title to be cancelled and an instrument containing a revised description of the land or mining rights to be issued in its stead, and the corrected instrument shall relate back to the date of the one so cancelled and has the same effect as if issued on the date of the cancelled instrument. 1967, c. 54, s. 13.

R.S.O. 1970,
cc. 380,
234, 409

SURVEY OF CLAIM BEFORE ISSUE OF PATENT

When
survey
required in
unsurveyed
territory

117.—(1) Before a patent, lease or licence of occupation of a mining claim in unsurveyed territory is applied for, the claim shall be surveyed by an Ontario land surveyor at the expense of the applicant, but no survey of a mining claim, except a perimeter survey consented to by the Minister under subsection 3, shall be made without the written consent of the recorder. 1962-63, c. 84, s. 33 (1).

Regulations
for surveying

(2) The Lieutenant Governor in Council may make regulations prescribing the method and procedure to be followed in surveying mining claims. R.S.O. 1960, c. 241, s. 109 (2).

Perimeter
survey

(3) Where two or more mining claims in unsurveyed territory are contiguous and are recorded in the same name, the Minister may, in special circumstances and upon application therefor, consent to a perimeter survey being made of the circumference of the contiguous claims in lieu of a survey under subsection 1.

Minister
to issue
written
instructions

(4) Where the Minister consents to a perimeter survey being made under subsection 3, he shall issue written instructions prescribing its conduct and filing.

(5) Subsections 1, 2, 3 and 4 of section 86 apply *mutatis mutandis* in the case of a perimeter survey except that a perimeter survey counts as ten days work on each claim in the group. Application of s. 86, subss. 1-4

(6) Where a perimeter survey is made under subsection 3, the price or rental shall be computed on the total area of the claims within the perimeter survey, and, where the average area of the claims within the perimeter survey exceeds by more than five acres the area prescribed for a mining claim in section 50, the price or rental for the area in excess of that so prescribed is twice the price or rental provided for in this Act, and there shall be performed at least five days work per acre for the excess area. Price or rental where area exceeds prescribed area

(7) Where additional work is required under subsection 6, the Minister may prescribe the time within which such work is to be performed and recorded, and application for patent or lease shall be made within the time so prescribed. Where additional work is required

(8) Before a perimeter survey is made, the mining claims proposed to be included in the perimeter survey shall be inspected by an inspector or other officer of the Department who shall prepare and submit to the Minister a report and plan showing the claim posts, legible markings, metal tags, claim lines and any other data useful in determining whether the claims have been properly staked out on the ground, and the survey shall not be directed to be made unless the Minister is satisfied that the requirements of this Act have been complied with. Mining claims to be inspected before perimeter survey made

(9) The fee for an inspection under subsection 8 is \$5 per claim, Fee payable in advance, and the Minister may require the applicant to provide the inspector with suitable transportation to the location of the claims.

(10) Where, after a perimeter survey has been made, one or more of the claims within the perimeter survey is cancelled for any reason or where the holder of a recorded interest ceases to be the holder of an undivided interest in the whole, the survey is void, and thereupon the recorder shall cancel the entry on the record and he shall also cancel the work recorded on account of the survey. 1962-63, c. 84, s. 33 (2). Cancellation of work

118.—(1) Where upon an application for a patent, lease or licence of occupation of a mining claim in surveyed territory the Minister is of opinion that a survey is necessary, he may direct that a survey thereof be made at the expense of the applicant, and the survey, unless otherwise ordered, shall comply with the same requirements as a survey of a mining claim in unsurveyed territory. R.S.O. 1960, c. 241, s. 110; 1962-63, c. 84, s. 34. Minister may direct survey of claim in surveyed territory

(2) Where a survey is required under subsection 1, the Minister may specify the time within which such work is to be performed and recorded, and the application and payment for a patent, lease or licence of occupation shall be made within the time so specified. 1968, c. 71, s. 6. Time limits

Reduction
of area of
claim

119.—(1) If it is found upon a survey required or authorized by this Act that the area of a mining claim exceeds the prescribed acreage, the Minister may reduce the area to the prescribed acreage or thereabouts in any way he sees fit.

Lands
accidentally
omitted,
disposition
of gores and
fractions

(2) Where two or more mining claims in unsurveyed territory are contiguous and constitute a group recorded in the name of one licensee and it was the manifest intention of the applicant or applicants, as shown by the sketch or sketches accompanying his or their application or applications for the same, to include as part of such mining claims all lands and lands under water within the limits of such group, and a survey shows that certain of the lands or lands under water are not so included, such lands or lands under water shall nevertheless be deemed to be part and parcel of the claim or claims in which it was the manifest intention that they should be included, and where two or more mining claims are contiguous and are recorded in the name or names of more than one licensee, any fraction or gore shown or created by a survey is not open for staking out until the Minister so directs, and the Minister on the report of the Surveyor General, may award such fraction or gore, or part thereof, to the recorded holder or holders of either or both of the contiguous claims, or may sell, lease, or otherwise dispose of the same as he sees fit without requiring such fraction or gore to be staked out as a mining claim. R.S.O. 1960, c. 241, s. 111.

PART III

PLACER MINING

Placer
mining
claims

120. A licensee who makes a discovery of a natural stratum, bed or deposit of sand, earth, clay, gravel or cement carrying gold, platinum or precious stones that is probably of such size and character as to be likely to be workable at a profit may stake out and record a mining claim to be called a Placer Mining Claim thereon, and the provisions of this Act as to the staking out and recording of a mining claim upon the discovery of valuable mineral in place thereon, as far as practicable, apply to the staking out of a placer mining claim as if the words “a natural stratum, bed or deposit of sand, earth, clay, gravel or cement carrying gold, platinum or precious stones that is probably of such size and character as to be likely to be workable at a profit” were used instead of “valuable mineral in place”, and the other provisions of this Act as to mining claims, as far as practicable, apply to a placer mining claim, and “mining claim” wherever used in this Act shall, unless repugnant to the context, be read as including placer mining claim. R.S.O. 1960, c. 241, s. 112 (2).

PART IV

PETROLEUM, GAS, COAL AND SALT

121.—(1) A licensee may obtain from the Minister a boring permit in the prescribed form granting him the exclusive right for a period of one year to prospect for petroleum or natural gas upon an area of land open for prospecting and staking out in those parts of Ontario lying north and west of the River Mattawa, Lake Nipissing, and the French River,

Boring permits to explore for oil, gas, coal or salt

- (a) by staking out such area by planting or erecting a post at each corner thereof in the manner and with the numbering provided by section 56, and writing or placing upon each post,
 - (i) the words "Boring Permit Applied For",
 - (ii) his name and the letter and number of his licence,
 - (iii) the date of the staking out, and
 - (iv) a statement of the area to be included in the application;
- (b) by furnishing the recorder with an application in duplicate verified by affidavit in the prescribed form not later than thirty-one days from the date of staking;
- (c) by forwarding to the Minister not more than ninety days thereafter a plan or diagram showing as nearly as possible the situation of the lands, and a written description of the lands, including, if the area is in surveyed territory, the number of the lots and concessions or sections or quarter sections or other subdivisions, together with a fee of \$100; and
- (d) by proving to the satisfaction of the Minister that he has paid or secured to the owner of the surface rights, if any, the compensation agreed upon or determined as provided in section 101 for any injury or damage that is or may be caused to the surface rights, or, in default of agreement, that he has paid or secured such compensation, as determined in the manner provided by section 101. R.S.O. 1960, c. 241, s. 113 (1); 1968, c. 71, s. 7 (1).

(2) One duplicate of the application shall be forthwith posted up by the recorder in his office and the other forwarded by him to the Minister.

Posting applications

(3) The area of land included in a boring permit, if in unsurveyed territory, shall be rectangular in form and shall not exceed 640 acres in extent, the boundary lines thereof being due north and south and due east and west astronomically, and if in surveyed territory, need not be rectangular in form but may consist of any number of contiguous lots, quarter sections or subdivisions of a section containing in all not more than 640 acres. R.S.O. 1960, c. 241, s. 113 (2, 3).

Form of area to be included in permit

Working
conditions

(4) The holder of a boring permit shall enter upon the area described therein within two months from the granting of the permit, and during the term of the permit shall expend thereon in actual boring, sinking, driving or otherwise searching for petroleum or natural gas a sum amounting to not less than \$2 per acre. R.S.O. 1960, c. 241, s. 113 (4); 1968, c. 71, s. 7 (2).

Renewal of
permit

(5) Upon proof being furnished to the Minister that such expenditure has been made and that all other terms and conditions of the permit have been complied with, the Minister, at the expiration of the boring permit, may grant one renewal of the permit for one year upon payment of a fee of \$100, and the renewal is subject to the like conditions as to expenditure and otherwise as the original permit.

Transfer of
permit

(6) The holder of a boring permit may, with the consent of the Minister endorsed thereon, transfer, in the prescribed form, all his rights in the permit or the land included therein, and, upon the consent being given, the licensee to whom the permit is transferred is entitled to the unexpired term of the permit, with any right of renewal thereof.

Limitation

(7) A licensee shall not in any one licence year stake out more than three areas or apply for or obtain more than three boring permits. R.S.O. 1960, c. 241, s. 113 (5-7).

Lease may
issue on
discovery

122.—(1) Upon the holder of a boring permit proving to the satisfaction of the Minister that he has discovered petroleum or natural gas or any one or more of such substances in commercial quantities upon the land included therein, the Minister may direct the issue to the holder of the permit of a lease of the land or a part of it for a term of ten years at an annual rental of \$1 per acre, payable in advance and subject to the expenditure of not less than \$2 per acre per annum, in obtaining petroleum or natural gas or any one or more of such substances therefrom or in actual *bona fide* operations or works undertaken or made for the purpose of obtaining the same, and the lessee has the right of renewal of the lease at the expiration of the first term of ten years for a further term of ten years at the same rental, and at the expiration of the second term for a term of twenty years at such renewal rental as is then agreed upon or provided by statute or regulation. R.S.O. 1960, c. 241, s. 114 (1); 1968, c. 71, s. 8 (1).

Regulations
as to leases

(2) Every such lease shall contain such other conditions, stipulations and provisos as the Lieutenant Governor in Council prescribes, and is forfeit and void if the rental payable thereunder is not paid when due or upon failure to expend the money required by subsection 1 to be laid out or upon failure to comply with any of the terms and conditions of the lease, but relief from forfeiture for failure to pay rent when due may be had by the payment of all arrears within ninety days after the rent became payable. R.S.O. 1960, c. 241, s. 114 (2).

(3) The right conferred by such a lease upon the lessee is to enter upon the land described, and to dig, bore, sink, drive or otherwise search for and obtain, raise and remove petroleum and natural gas or any one or more of such substances, and all other valuable minerals are reserved to the Crown, and a holder of a miner's licence may at all times go upon the land and prospect the land and stake out a mining claim thereon, but subject to compensating the lessee for any injury or damage to his interest in the land at the time and in the manner provided in section 101, and may obtain a patent therefor, but the patent shall reserve the petroleum and natural gas in, on or under the land. R.S.O. 1960, c. 241, s. 114 (3); 1968, c. 71, s. 8 (2).

Rights
of lessee

(4) No such lease shall issue for land in unsurveyed territory until a plan of survey made by an Ontario land surveyor is filed in the Department, and such survey shall be in conformity with this Act and to the satisfaction of the Minister. R.S.O. 1960, c. 241, s. 114 (4).

Survey
required in
unsurveyed
territory

(5) The holder of a boring permit or of a lease for petroleum or natural gas is not entitled to the timber upon the land included in the permit or lease but, if the land is not covered by timber licence and has not been located, sold or patented under *The Public Lands Act*, may, with the permission of the Minister of Lands and Forests and upon payment of such rates as are fixed, cut and use such timber as is necessary for boring and working the land. R.S.O. 1960, c. 241, s. 114 (5); 1968, c. 71, s. 8 (3).

Timber to
be reservedR.S.O. 1970,
c. 380

123. Notwithstanding anything in sections 121 and 122, the Minister, with the approval of the Lieutenant Governor in Council, may make such regulations as he thinks fit respecting the issue of boring permits authorizing the holders thereof to prospect for petroleum or natural gas in that part of Ontario lying north of the fifty-first parallel of latitude and predominately underlain with paleozoic rock formations and for the issue of leases upon such terms as the Minister sees fit. 1967, c. 54, s. 14.

Regulations
for boring
permits

124. The Lieutenant Governor in Council may make regulations respecting the issue of licences to explore for and leases to produce natural gas and petroleum from Crown lands lying south and east of the River Mattawa, Lake Nipissing, and the French River, including,

Regulations

- (a) fees, rents and royalties payable in respect thereof; and
- (b) the bonding of licensees and the conditions of forfeiture of bonds. 1962-63, c. 84, s. 36.

PART V

EXPLORATORY LICENCES AND DREDGING LEASES

125. The Lieutenant Governor in Council may make regulations respecting the issue of licences to explore and leases to

Regulations

dredge or work in any river, stream or lake or lands not covered by water for the purpose of recovering therefrom alluvial gold, platinum, precious stones or any other valuable mineral not in place. 1962-63, c. 84, s. 37.

PART VI

EXPLORATORY LICENCES AND PRODUCTION LEASES IN PALEOZOIC ROCK FORMATIONS

Regulations
for map
staking

126. The Minister, with the approval of the Lieutenant Governor in Council, may make regulations respecting licences to explore for and leases to mine minerals in designated areas in that part of Ontario lying north of the fifty-first parallel of latitude and predominately underlain with paleozoic rock formations. 1967, c. 54, s. 15.

PART VII

QUARRY PERMITS

Quarry
permit

127.—(1) No person shall take or remove or cause to be taken or removed any stone or rock quarried for any industrial or commercial purpose, limestone, marble, granite, quartz, feldspar, fluorspar, gypsum, diatomaceous earth, clay, marl, peat, sand or gravel that is the property of the Crown unless he is the holder of a quarry permit. R.S.O. 1960, c. 241, s. 118 (1); 1968, c. 71, s. 9.

Application

(2) Application for a quarry permit may be made in the prescribed form to the Minister or the Deputy Minister, but, where the permit applied for is to authorize the taking or removal of less than 1,000 cubic yards or 1,000 tons of material, the application may be made to a recorder.

Issue

(3) The Minister, the Deputy Minister or a recorder may issue quarry permits upon application therefor and upon payment of the prescribed fees.

Issue free
of charge

(4) Notwithstanding subsection 3, a quarry permit may be issued free of charge to any municipality, or to any resident of Ontario if the material to be taken or removed is for his own use and not for sale or for use for any commercial or industrial purpose, but, where more than 100 cubic yards or 100 tons of material is to be taken or removed, the permit shall not be issued free of charge without the approval of the Minister.

Term

(5) Every quarry permit expires on the 31st day of March next following its date of issue unless it is otherwise stated in the permit.

(6) No quarry permit shall be transferred without the written ^{Transfer} consent of the Minister or the Deputy Minister.

(7) The Minister may suspend or revoke a quarry permit at ^{Suspension} any time.

(8) The Minister may require an applicant for a quarry permit ^{Plan} to file a plan of the area in which he desires to operate, indicating the extent and nature of the deposit and the location of any buildings or improvements adjacent to the deposit. R.S.O. 1960, c. 241, s. 118 (2-8).

128.—(1) The holder of a quarry permit, other than the holder of a quarry permit issued free of charge, shall pay the ^{Amount to be paid for material removed} Crown for the material taken or removed such amount as the Minister may determine.

(2) In determining the amount to be paid under subsection 1, ^{How determined} the Minister shall have regard to the location, type and accessibility of the deposit and the amount of the material taken or removed.

(3) The Minister may require the holder of a quarry permit to ^{Security} give security by bond or otherwise for the payment of such amounts. R.S.O. 1960, c. 241, s. 119.

129. The holder of a quarry permit shall keep a detailed ^{Records} record of his operations and shall retain copies of all documents relating to sales and shipments, and all accounts, records and documents relating to his operations shall be kept available for inspection by any person authorized by the Minister to inspect such accounts, records and documents. R.S.O. 1960, c. 241, s. 120.

130. Any person authorized by the Minister may enter any ^{Power to inspect} premises covered by a quarry permit and shall have access to all accounts, records and documents kept in relation to the operation of the quarry. R.S.O. 1960, c. 241, s. 121.

131. The holder of a quarry permit shall make a ^{Returns} return on the prescribed form on or before the tenth day of each month showing the quantity and destination of the material taken or removed during the next preceding month. R.S.O. 1960, c. 241, s. 122.

132. A quarry permit does not affect the right of a licensee to ^{Licensee, right of} stake out a mining claim on the lands covered by the permit and any question of property damage shall be determined in the manner provided in section 101. R.S.O. 1960, c. 241, s. 123.

133. Every person who contravenes any of the provisions of ^{Offence} this Part is guilty of an offence and is liable to a fine of not less than \$10 and not more than \$500. R.S.O. 1960, c. 241, s. 124.

PART VIII

MINING COMMISSIONER

Appointment **134.**—(1) The Lieutenant Governor in Council may appoint an officer known as the Mining Commissioner.

Seal (2) The Commissioner shall have a seal of office with which all process shall be sealed or stamped.

Acting Commissioner (3) Where the Commissioner is unable to perform his duties because of illness or for any other reason, the Minister may in writing appoint a person to act in his stead, but the authority of such person is restricted to the making of orders under section 95 and he has only such powers of the Commissioner as are necessary for the purpose. R.S.O. 1960, c. 241, s. 125.

Jurisdiction **135.** Except as provided by section 641, no action lies and no other proceeding shall be taken in any court as to any matter or thing concerning any right, privilege or interest conferred by or under the authority of this Act, but, except as in this Act otherwise provided, every claim, question and dispute in respect of such matter or thing shall be determined by the Commissioner, and in the exercise of the power conferred by this section the Commissioner may make such order or give such directions as he considers necessary to make effectual and enforce compliance with his decision. R.S.O. 1960, c. 241, s. 126.

Style of proceedings
R.S.O. 1970, c. 274 **136.** Every notice and every document in any matter, application or appeal coming before the Commissioner shall be styled "In the matter of *The Mining Act* before the Mining Commissioner". R.S.O. 1960, c. 241, s. 127.

Attendance of witnesses
R.S.O. 1970, c. 379 **137.** The Commissioner has in respect of matters that may be dealt with by him all the powers of summoning and enforcing the attendance of witnesses and compelling them to give evidence and produce documents and things that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 241, s. 128.

Crown patents **138.**—(1) The Commissioner has no power or authority to declare forfeited or void or to cancel or annul any Crown patent issued for lands, mining lands, mining claims or mining rights, but every action and every proceeding to declare forfeited or void or to cancel or annul any such Crown patent may be brought or taken in the Supreme Court. R.S.O. 1960, c. 241, s. 129.

Where cancellations permitted (2) Subsection 1 does not apply to cancellations or forfeitures provided for in this Act or in the patent. 1967, c. 54, s. 16.

139. A party to a proceeding under this Act brought before the Commissioner and involving any right, privilege or interest or in connection with any patented lands, mining lands, mining claims or mining rights, may, at any stage of the proceeding, apply to the Supreme Court for an order transferring the proceeding to the Supreme Court. R.S.O. 1960, c. 241, s. 130.

Transfer of proceeding to Supreme Court

140. Where in the opinion of the court in which an action is brought the proceeding may be more conveniently dealt with or disposed of by the Commissioner, the court may, upon the application of a party or otherwise and at any stage of the proceeding, refer the action or any question therein to the Commissioner as an official referee on such terms as to the court seems just and the Commissioner shall thereafter give directions for the continuance of the proceeding before him, and, subject to the order of reference, all costs are in his discretion. R.S.O. 1960, c. 241, s. 131.

Reference from court to Commissioner

141. Where a proceeding that should have been taken before the Commissioner is brought in a court, the court may, upon the application of a party or otherwise and at any stage of the proceeding, transfer it to the Commissioner. R.S.O. 1960, c. 241, s. 132.

Transfer from court to Commissioner

142.—(1) The Lieutenant Governor in Council may make Rules rules,

- (a) prescribing the practice and procedure before the Commissioner;
- (b) respecting the sittings of the Commissioner and the places at which the sittings shall be held;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part.

(2) The rules in force in the Mining Court of Ontario on the 1st day of June, 1956, continue in force and apply *mutatis mutandis* to proceedings before the Commissioner until revoked or amended. R.S.O. 1960, c. 241, s. 133.

Rules

143.—(1) Subject to the right of appeal provided in section 146, a recorder has power to hear and determine disputes between licensees as to unpatented mining claims situate in his mining division.

Recorder may determine disputes

(2) Any question arising before the issue of a certificate of record of a mining claim as to whether the provisions of this Act regarding a mining claim have been complied with, unless the Commissioner otherwise orders or unless the recorder with the consent of the Commissioner transfers the question to the Commissioner for his decision, shall in the first instance be decided by the recorder.

When recorder to decide matter in first instance

Note and
notice of
recorder's
decision

(3) The recorder shall enter forthwith in the book of his office a full note of every decision made by him, and shall notify the persons affected thereby of the decision by registered letter mailed not later than the next day after the entry of the note.

Certificate
of decision

(4) Every person affected by the decision is entitled upon payment of the prescribed fee to receive from the recorder a certificate thereof which shall contain the date of the entry of the decision in the books of the recorder.

Finality of
decision

(5) The decision of the recorder is final and binding unless appealed from as provided in section 146. R.S.O. 1960, c. 241, s. 134.

Recorder
may order
the removal
of witness
posts, etc.

(6) Where he is satisfied that there is substantial compliance with the provisions of this Act, the recorder may make an order directing a holder,

- (a) to move, remove or alter corner posts and witness posts and the writing or inscribing thereon;
- (b) to move or alter claim lines;
- (c) to replace metal tags that have been removed or destroyed after having been affixed to the corner posts; or
- (d) to replace missing corner posts and witness posts and to affix tags to such posts,

and the recorder shall set out in the order the time within which the work shall be completed and reported to him. 1962-63, c. 84, s. 38, *part*; 1967, c. 54, s. 17.

Recorder
may cancel
claim

(7) Where the work prescribed in an order under subsection 6 has not been completed within the time set out in the order, the recorder may cancel the claim or claims on which the work was to have been done and shall, by registered letter, mailed not later than the next day after the cancellation, notify the holder of his action and the reason therefor. 1962-63, c. 84, s. 38, *part*.

Application

(8) This section applies to the manner in which the metal tags have been affixed to the corner posts, notwithstanding that the period prescribed in subsection 5 of section 63 has not fully expired. 1965, c. 73, s. 8.

Directions
as to con-
duct of
proceedings

144.—(1) The recorder may give directions for the conduct and carrying on of any proceeding before him, and in so doing he shall adopt the cheapest and simplest methods of determining the questions raised before him.

Where no
direction

(2) Where no such directions are given, the provisions relating to procedure before the Commissioner apply wherever applicable. R.S.O. 1960, c. 241, s. 135, *amended*.

145. A duplicate of any order made by the Commissioner or by a recorder may be filed in the office of the Registrar of the Supreme Court or in the office of any local registrar of the Supreme Court or in the office of the clerk of the county or district court of the county or district in which the land lies, and upon being so filed it becomes an order of the court in which it is filed and is enforceable as an order of such court, but the court or a judge thereof may stay proceedings thereon if an appeal from the order is brought. R.S.O. 1960, c. 241, s. 137, *amended*.

Conversion of Commissioner's or recorder's orders into court orders

146.—(1) A person affected by a decision of or by any act or thing, whether ministerial or judicial, done or refused or neglected to be done by a recorder may appeal to the Commissioner who shall decide the matter and make such order in the premises as he considers just. R.S.O. 1960, c. 241, s. 138 (1).

Appeal from recorder to Commissioner

(2) An appeal under subsection 1 may be taken by the Director or the Supervisor on his behalf where, in the opinion of the Minister, the public interest is affected, and no fee prescribed in the Schedule in respect of the appeal is payable by the Director or Supervisor. 1968, c. 71, s. 10.

Appeal by Director

(3) Upon an appeal from a decision of a recorder, the Commissioner may require or admit new or additional evidence or may retry the matter.

Powers on appeal

(4) The appeal shall be by notice in writing in the prescribed form, filed in the office of the recorder and served upon all parties adversely interested within fifteen days from the entry of the decision on the books of the recorder or within such further period not exceeding fifteen days as the Commissioner allows, but if the notice of appeal has been filed with the recorder within such time and the Commissioner is satisfied that it is a proper case for appeal and that after reasonable effort any of the parties entitled to notice could not be served within such time, the Commissioner may extend the time for appealing and make such order for substitutional or other service as is considered just, or if a person affected has not been notified as provided in sections 99 and 143 and appears to have suffered substantial injustice and has not been guilty of undue delay, the Commissioner may allow such person to appeal.

Method of appealing

(5) The notice of appeal shall contain or have endorsed upon it an address in Ontario at which the appellant may be served with any notice or document relating to the appeal, and any such notice or document is sufficiently served upon the appellant if it is left with a grown-up person at such address or, where no such person can there be found, if sent by registered letter addressed to the appellant at such address.

Service of notice of appeal

(6) If no address for service is given as provided in subsection 5, any such notice or document may be served upon the appellant

Idem

by posting it up in the recorder's office. R.S.O. 1960, c. 241, s. 138 (2-5).

Appointment
for hearing
of appeal

147. An appointment shall be obtained from the Commissioner for the hearing of an appeal, a dispute mentioned in section 65, or any claim, question, dispute or other matter within his jurisdiction. R.S.O. 1960, c. 241, s. 139.

Reasonable
grounds to
be shown

148.—(1) In any matter or proceeding, other than an appeal, the Commissioner may, if a certificate of record has been issued, require the applicant to satisfy him that there is reasonable ground for the application or may in any such case, or in any case where leave to take the proceeding is necessary, give the appointment or leave only upon such terms as to security for costs or otherwise as he considers just.

Application
for appoint-
ment

(2) The appointment may be obtained upon application made either orally or in writing.

Copy of
appoint-
ment to
be served

(3) A copy of the appointment shall be served upon all parties concerned and, except in the case of an appeal or a dispute under section 65, a notice in the prescribed form stating shortly the nature and particulars of the right, question or dispute shall be served also. R.S.O. 1960, c. 241, s. 140, *amended*.

Directions

149.—(1) The Commissioner may give directions for having any matter or proceeding heard and decided without unnecessary formality, may order the filing or serving of statements, particulars, objections or answers, the production of documents and things, and the making of amendments, may give such other directions respecting the procedure and hearing as he considers proper, may make any appointment, notice or other proceeding returnable forthwith or at such time as he considers proper, and may order or allow such substituted or other service as he considers proper.

Place of
hearing

(2) In appointing the place of hearing, the Commissioner shall select the place that he considers most convenient for the parties in the county or district or one of the counties or districts in which the lands or mining rights affected are situate, unless it appears to him desirable that the hearing should be in some other county or district.

Prompt
hearing

(3) The hearing shall be proceeded with as promptly as possible having regard to the interests of the parties.

Taking
evidence

(4) The Commissioner may take or order the evidence of any witness to be taken at any place in or out of Ontario.

Inter-
locutory
matters

(5) The Commissioner may hear and dispose of any application not involving the final determination of the matter or proceeding at any place he considers convenient, and his decision upon any such application is final and is not subject to appeal. R.S.O. 1960, c. 241, s. 141.

150. The Commissioner may obtain the assistance of engineers, surveyors or other scientific persons who may under his order view and examine the property in question, and in giving his decision he may give such weight to their opinion or report as he considers proper. R.S.O. 1960, c. 241, s. 142.

Expert assistance

151.—(1) The Commissioner, in addition to hearing the evidence adduced by the parties, may require and receive such other evidence as he considers proper, and may view and examine the property in question and give his decision upon such evidence or view and examination, or may appoint a person to make an inspection of the property, and may receive as evidence and act upon the report of the person so appointed.

Commissioner may call for evidence and view property

(2) Where the Commissioner proceeds partly on a view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to enable a judgment to be formed of the weight that should be given thereto.

Statement of view or special knowledge

(3) Where the parties consent in writing, the Commissioner may proceed wholly upon a view, and in such case his decision is final and is not subject to appeal. R.S.O. 1960, c. 241, s. 143.

View only

152. The Commissioner shall give his decision upon the real merits and substantial justice of the case. R.S.O. 1960, c. 241, s. 144.

Decision on the merits

153. Where the Commissioner considers the matter or proceeding vexatious or where it is brought by a person residing out of Ontario, he may order that such security for costs as he considers proper be given and that in default of such security being given within the time limited or in default of speedy prosecution the matter or proceeding be dismissed. R.S.O. 1960, c. 241, s. 145.

Security for costs

154. Where the hearing is to be held at a place where a court house is situate, the Commissioner has the right to use the court room, and where the hearing is to take place in a municipality in which there is a hall belonging to the municipality, but no court room, he has the right to use the hall. R.S.O. 1960, c. 241, s. 146.

Use of court rooms, etc.

155. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Commissioner in the exercise of the powers conferred on him by this Act whenever required so to do and shall upon the certificate of the Commissioner be paid the same fees as for similar services in carrying out the orders of a judge of the Supreme Court. R.S.O. 1960, c. 241, s. 147, *amended*.

Sheriffs, etc., to assist

Transcripts
of evidence

156. The evidence taken before the Commissioner need not be filed or written out at length unless required by the Commissioner or by a party to the proceeding, and if so required, copies shall be furnished upon the same terms as in cases in the Supreme Court. R.S.O. 1960, c. 241, s. 148.

Costs

157. The Commissioner may in his discretion award costs to any party, and may direct that such costs be taxed by the clerk of the county or district court or by a local taxing officer or by one of the taxing officers at Toronto, or may order that a lump sum be paid in lieu of taxed costs. R.S.O. 1960, c. 241, s. 149.

Scale of
costs

158.—(1) The costs and disbursements payable upon proceedings before the Commissioner as to any matter in which the amount or value of the property in question does not in the opinion of the Commissioner exceed \$400 shall be according to the tariff of the county court and as to any matter in which the amount or value of the property in question in his opinion exceeds \$400 shall be according to the tariff of the Supreme Court.

Idem

(2) The Commissioner shall in his order or award direct the tariff upon which the costs and disbursements shall be taxed.

Counsel fees

(3) The Commissioner has the same powers as a judge of a county court or a taxing officer of the Supreme Court with respect to counsel fees. R.S.O. 1960, c. 241, s. 150.

Witness fees

159. The fee and conduct money to be paid to a witness before the Commissioner or recorder shall be according to the county court scale. R.S.O. 1960, c. 241, s. 151.

Form of
decision

160.—(1) Except where inapplicable, the decision of the Commissioner shall be in the form of an order or judgment, but need not show upon its face that any proceeding or notice was had or given or that any circumstance existed necessary to give jurisdiction to make the order or judgment.

Documents
to be filed

(2) The order or judgment of the Commissioner, with the evidence, exhibits, the statement, if any, of view or of special knowledge or skill and the reasons for his decision, if any are given, shall be filed in the Department or in the office of the recorder as the Commissioner may direct, and the officer or person in charge of such office shall forthwith give notice in writing of the filing by registered mail or otherwise to the solicitors of the parties appearing by solicitor and to parties not represented by a solicitor.

Idem

(3) Where the order or judgment is not filed with the recorder of the division in which the property affected is situate, the Commissioner shall transmit a duplicate thereof to such recorder. R.S.O. 1960, c. 241, s. 152.

161.—(1) The Commissioner shall make in the books of his office a full note of every decision given by him. Entry of decision

(2) Where a decision of the Commissioner finally disposes of the matter in question so far as he is concerned, he shall give notice of the purport of his decision to the parties by registered mail addressed to them at their addresses as entered in his books. R.S.O. 1960, c. 241, s. 153. Notice of final decision

162. Any party to a proceeding is entitled on payment of the prescribed fee to a certified copy of any order or judgment, and the copy shall show the date of the entry of the order or judgment in the books of the Commissioner. R.S.O. 1960, c. 241, s. 154. Certified copies

163. Where not otherwise provided, an appeal lies to the Court of Appeal from any decision of the Commissioner, including an order dismissing a matter or proceeding under section 153. R.S.O. 1960, c. 241, s. 155. Appeal to Court of Appeal

164.—(1) Except in the case provided for by section 140 and in the case of a reference under *The Arbitrations Act*, the order of the Commissioner is final and conclusive unless where an appeal lies it is appealed from within fifteen days after the filing thereof or within such further period not exceeding fifteen days as the Commissioner or a judge of the Supreme Court allows. Time for appeal
R.S.O. 1970,
c. 25

(2) The appeal shall be begun by filing a notice of appeal with the recorder of the division in which the property in question or a part of it is situate and paying to him the prescribed fee, and unless such filing and payment are so made, and unless the appeal is set down and a certificate of such setting down lodged with the recorder within five days after the expiration of such fifteen days or the further time allowed under subsection 1, the appeal shall be deemed to be abandoned. Notice of appeal

(3) The recorder and, in cases where section 22 applies, the Deputy Minister shall forthwith after the filing of the notice of appeal and the payment of the prescribed fee transmit by registered mail or by express to the office of the Registrar of the Supreme Court, Toronto, the order or judgment and all the exhibits, papers and documents filed therewith. Transmission of documents

(4) Where the time for appealing is extended, the appellant shall forthwith transmit the order for the extension, or a duplicate thereof, by registered mail to the recorder. Extension order

(5) The practice and procedure, including the disposition of costs, on an appeal shall be the same as in ordinary cases under *The Judicature Act*. R.S.O. 1960, c. 241, s. 156. Procedure on appeals
R.S.O. 1970,
c. 228

165. Except as provided in this Part, proceedings under this Act are not removable into any court by certiorari or otherwise, No certiorari, etc.

and no injunction, mandamus or prohibition shall be granted or issued out of any court in respect of anything required or permitted to be done by any officer appointed under this Act. R.S.O. 1960, c. 241, s. 157.

Defects
in form

166. No proceeding before the Commissioner or a recorder shall be invalidated by reason of any defect in form or substance or failure to comply with this Act, if no substantial wrong or injustice has been thereby done or occasioned. R.S.O. 1960, c. 241, s. 158.

Power to
extend time

167. Where power is conferred by this Act to extend the time for doing an act or taking a proceeding, unless otherwise expressly provided, the power may be exercised as well after as before the expiration of the time allowed or prescribed for doing the act or taking the proceeding. R.S.O. 1960, c. 241, s. 159.

Time
expiring
on a
Saturday

168. Where the time limited for any proceeding or for the doing of anything in an office of a mining recorder or an office of the Mining Commissioner or an office of the Minister or Deputy Minister expires or falls upon a Saturday, the time so limited extends to and the thing may be done on the day next following that is not a holiday. R.S.O. 1960, c. 241, s. 160.

PART IX

OPERATION OF MINES

Interpre-
tation

169.—(1) In this Part,

- (a) “authorized” means properly authorized to perform any specified duty or to do any specified act;
- (b) “engineer” means a member of the Association of Professional Engineers of the Province of Ontario who is designated by the Department as “chief engineer” or as “district mining engineer”, or as “district electrical-mechanical engineer”;
- (c) “manager” means the owner of a mine or plant or a part thereof or his agent, or a person designated by the owner or his agent as responsible for the control, management and direction of a mine, plant or a part thereof;
- (d) the noun “mine” includes any opening or excavation in, or working of the ground for the purpose of winning, opening up or proving any mineral-bearing substance, and any ore body, mineral deposit, stratum, rock, earth, clay, sand or gravel, or place where mining is or may be carried on and also any quarry, excavation or opening in the ground made for the purpose of searching for or removal of mineral, rock, stratum, earth, clay, sand or

- gravel, and any premises below or above ground belonging to or used in connection with the mine not included in the definition of the noun "plant";
- (e) the verb "mine" and the word "mining" mean the performance of any work in or about a mine;
 - (f) "mine rescue training officer" means a person in charge of a mine rescue station and responsible for mine rescue training;
 - (g) the noun "plant" includes any roasting or smelting furnace, concentrator, mill or place and work used for or in connection with washing, crushing, grinding, sifting, reducing, leaching, roasting, smelting, refining, treating or research on any substance included under the noun "mine" and all ways, works, machinery, buildings and premises above ground used in connection therewith;
 - (h) "professional engineer" means a person who is a member of or is licensed by the Association of Professional Engineers of Ontario;
 - (i) "qualified" means properly qualified to perform any specified duty or to do any specified act;
 - (j) "safety" means freedom from injury to the body or freedom from damage to the health of a person.

(2) The provisions of this Part do not apply to cookhouses, bunkhouses, recreational centres, dwellings, and the grounds used in connection therewith. 1970, c. 79, s. 2, *part*. Where Part does not apply

EMPLOYMENT IN AND ABOUT MINES

170.—(1) No person under the age of sixteen years shall be employed in or about a mine or plant, and no person under the age of eighteen years shall be employed underground in a mine or at the working face of an open-cut workings, pit or quarry. Employment, of children,

(2) No female person shall be employed on underground work in any mine or at the working face of an open-cut workings, pit or quarry, except, of females

- (a) those who have to enter the underground parts of a mine for the purpose of a non-manual occupation; or
- (b) those employed in health and welfare services; or
- (c) those who, in the course of their studies spend a period of training in the underground parts of a mine. 1970, c. 79, s. 2, *part*.

MINE RESCUE STATIONS

171.—(1) Mine rescue stations shall be established, equipped, operated and maintained at such places and in such manner as the Minister may direct. Establishment

Mine rescue
training
officers

(2) The Lieutenant Governor in Council may appoint such mine rescue training officers as he considers advisable.

Duty of
mine rescue
training
officers

(3) The equipment and operation of mine rescue stations shall be in the charge of mine rescue training officers, and it is the duty of such officers to teach and train mine rescue crews and supervisors in the use and maintenance of the apparatus in such manner as the chief engineer may direct, to maintain the apparatus in efficient and workable condition so as to be available for immediate use, and to perform such other duties as the chief engineer considers necessary.

Training of
rescue crews

(4) The owner, agent or manager of a mine shall cause such workmen and supervisors to be trained in the use and maintenance of mine rescue equipment as the district mining engineer considers necessary.

Responsi-
bility in
mine rescue
operations

(5) The mine manager is responsible for the supervision and direction of mine rescue crews in all mine rescue and recovery operations conducted at the mine.

Cost

(6) The cost of establishing, maintaining and operating mine rescue stations shall be paid out of the Consolidated Revenue Fund.

Idem

(7) The Workmen's Compensation Board shall at the end of each quarter year reimburse the Consolidated Revenue Fund from moneys assessed and levied by the Board against employers in the mining industry for the total amount certified by the Deputy Minister to have been paid out under subsection 6.

Disposal of
equipment,
etc.

(8) All moneys received from the sale or disposal of any equipment, buildings or machinery forming part of or appertaining to mine rescue stations shall be paid to the Workmen's Compensation Board and shall be placed to the credit of the class funds of the employers in the mining industry.

Fresh
air bases

(9) Fresh air bases shall be strategically located in deep mines and their design, locations, equipment and use are to be approved by the chief engineer. 1970, c. 79, s. 2, *part*.

HOURS OF LABOUR UNDERGROUND

Interpre-
tation

172.—(1) In this section,

- (a) "shift" means a body of workmen whose hours for beginning and terminating work in the mine are the same or approximately the same;
- (b) "workman" means a person employed underground in a mine who is not the owner or agent or an official of the mine,

and, where any question or dispute arises as to the meaning or application of clause *b* of subsection 2 or as to the meaning of "shift", "workman", or "underground", the certificate of the engineer is conclusive.

(2) No workman shall remain or be allowed to remain underground in a mine for more than eight hours in any consecutive twenty-four hours, which eight hours shall be reckoned from the time he arrives at his place of work in the mine until the time he leaves such place, except that,

Hours of
labour
under-
ground

- (a) a shift or any part of a shift may remain or be allowed to remain underground in a mine for more than eight hours in any consecutive twenty-four hours on one day of a week for the purpose of avoiding work on Sunday or on a holiday or changing shift;
- (b) such limit does not apply to a foreman, pumpman, cagetender, or any person engaged solely in surveying or measuring, nor does it apply in cases of emergency where life or property is in imminent danger, nor does it apply to repair work which is necessary for normal production.

(3) No person shall operate or be permitted to operate, either on the surface or underground, a hoist, by means of which persons or material are hoisted, lowered or handled in a shaft or winze, for more than eight hours in any consecutive twenty-four hours, except,

Hours of
operator
of hoist

- (a) that, in the event of one of the regular hoistmen being absent from duty through sickness or otherwise and where no competent substitute is available, the remaining hoistman or hoistmen may work extra time not exceeding four hours each in any consecutive twenty-four hours for a period not exceeding fourteen days;
- (b) that, in the case where the work at a mine or in a shaft or winze at a mine is not carried out continuously on three shifts per day, the hoistman may work such extra time as is necessary for lowering or hoisting the workmen employed on the shift at the beginning and end of each shift;
- (c) in the cases provided for in clauses *a* and *b* of subsection 2. 1970, c. 79, s. 2, *part*.

QUALIFICATIONS OF HOISTMEN

173.—(1) No person under the age of twenty-one years and no person who has not had adequate experience on a reversing hoist shall be authorized to operate a hoist by which persons are handled in a shaft or winze at a mine.

Age limit
of hoistmen

(2) No person under the age of eighteen years shall be authorized to operate a hoist at a mine.

Idem

(3) No person shall operate or be permitted to operate a hoist at a shaft or winze in which persons are handled at a mine, or for any other purpose designated by an engineer, unless he has been examined by a legally qualified medical practitioner acceptable to

Hoistman
to be
holder of
medical
certificate

the employer and the medical practitioner has issued to him on the form prescribed a hoistman's medical certificate to the effect that to the best of the practitioner's knowledge the person is not subject to any infirmity, mental or physical (particularly with regard to sight, hearing and heart), to such a degree as to interfere with the efficient discharge of his duties.

Expiry of
certificate

(4) Every hoistman's medical certificate lapses and shall be deemed to have expired at the end of one year from its date.

Filing of
certificate

(5) Every hoistman's medical certificate shall be kept on file by the employer and made available to an engineer at his request.

Posting
record of
certificates

(6) A record of all hoistmen's medical certificates pertaining to hoistmen operating in any one hoistroom shall be kept posted therein, showing the names of the hoistmen and the date of the last certificate issued to each.

Automatic
hoist
exempted

(7) This section does not apply to the operation of a hoist when on automatic or semi-automatic control. 1970, c. 79, s. 2, *part*.

Proceedings
where
persons
employed
contrary
to Act

174. Where a contravention of section 170, 172 or 173 takes place, the owner, agent or manager of the mine, or any of them, may be proceeded against, jointly or separately, and may be convicted of such offence, but neither the owner nor the agent nor the manager shall be so convicted if he proves that the offence was committed without his knowledge or consent, and that he had caused notices of the said sections to be posted up, and to be kept posted up, at some conspicuous place at or near the entrance to the mining work. 1970, c. 79, s. 2, *part*.

MEDICAL EXAMINATIONS

Interpre-
tation

175.—(1) In this section,

- (a) "applicant" means a person who is not the holder of a certificate in good standing who is seeking employment in a dust exposure occupation;
- (b) "certificate" means an initial certificate, an extended certificate, an endorsed certificate, a miner's certificate or a renewed certificate;
- (c) "dust exposure occupation" means,
 - (i) employment underground in a mine,
 - (ii) employment at the surface of a mine, other than at a pit or quarry, in ore or rock crushing operations where the ore or rock is not crushed in water or a chemical solution,
 - (iii) employment at other locations, as designated by the chief engineer, at the surface of a mine or in a pit or quarry;

- (d) "endorsed certificate" means an initial certificate or extended certificate that has been endorsed under clause *b* of subsection 7;
- (e) "extended certificate" means an initial certificate that has been extended under clause *a* of subsection 7;
- (f) "initial certificate" means a certificate issued to an applicant under subsection 6;
- (g) "medical officer" means a medical officer appointed under *The Workmen's Compensation Act* to carry out the provisions of this Act with regard to the examination of employees or applicants for employment; R.S.O. 1970,
c. 505
- (h) "miner's certificate" means a certificate issued under subsection 8;
- (i) "renewed certificate" means a miner's certificate that has been renewed under subsection 9.

(2) No person shall be employed in a dust exposure occupation unless he is the holder of a certificate in good standing. Employment
in dust
exposure
occupation

(3) Subject to subsection 4, every certificate remains in force for not more than twelve months, except that a medical officer may at any time recall the holder of a certificate for examination within the scope of the existing certificate and may extend, endorse, renew or cancel the certificate in accordance with his finding upon the examination. Term of
certificate

(4) In those parts of Ontario where the examinations under subsections 6 to 9 are conducted by a travelling medical officer, no certificate shall be deemed to have expired because of the failure of the medical officer to conduct an examination prior to the date of expiration of a certificate, and the holder of a certificate that would otherwise have expired shall present himself before a medical officer for re-examination at the first opportunity available after the date upon which his certificate would have so expired. Examination
by travelling
medical
officer

(5) Where a certificate of a person employed in the mining industry has expired because of the failure of its holder to present himself to a medical officer for examination, a medical officer may extend, endorse or renew the certificate or issue a miner's certificate, as the circumstances of the case require, if he is satisfied that the failure was caused by the inability of the holder to so present himself because of illness or other circumstances beyond his control. Expiration
of
certificate

(6) Every applicant shall be examined by a medical officer before commencing employment, and, if the medical officer finds upon examination that the applicant is free from disease of the respiratory organs and otherwise fit for employment in a dust exposure occupation, he shall issue to the applicant an initial certificate. Examination
before
employment

Initial
certificate
holder, re-
examination

(7) The holder of an initial certificate shall, prior to its expiration, present himself to a medical officer for re-examination, and, if the medical officer finds upon examination that the holder is free from disease of the respiratory organs and otherwise fit for employment in a dust exposure occupation, he shall,

(a) in the case of a holder who since the issuance of his initial certificate has completed less than eleven months employment in a dust exposure occupation, extend the certificate for such period as he considers necessary to permit the holder to complete twelve months employment in a dust exposure occupation, and he may from time to time extend the certificate for the same purpose; and

(b) in the case of a holder of an initial certificate who since the issuance of his initial certificate has completed eleven months or more employment in a dust exposure occupation, endorse the certificate.

Issue of
miner's
certificate

(8) The holder of an endorsed certificate who since the endorsement of his initial certificate has completed eleven months or more employment in a dust exposure occupation shall, prior to its expiration, present himself to a medical officer for examination, and, if the medical officer finds upon examination that the holder is free from tuberculosis of the respiratory organs, he shall issue him a miner's certificate.

Miner's
certificate
holder, re-
examination

(9) The holder of a miner's certificate shall, prior to its expiration, present himself to a medical officer for re-examination, and, if the medical officer finds upon examination that the holder is free from tuberculosis of the respiratory organs, he shall renew the certificate, which may be further renewed from year to year upon the passing of a similar examination.

Unemployed
holder of
certificate

(10) The holder of a certificate who for any reason is out of employment in a dust exposure occupation may apply to a medical officer for the extension, endorsement or renewal of his certificate or for the issuance of a miner's certificate, as the case may be, and upon presentation of the holder's certificate, the medical officer shall conduct the required examination and effect such extension, endorsement, renewal or issuance as is warranted by his findings upon the examination.

Holder of
initial or
extended
certificate

(11) Where the holder of an initial or extended certificate has been out of employment in the mining industry for a period exceeding one year and during such period has failed, through neglect on his part, to have his certificate extended or endorsed, such certificate is void and its holder is eligible for re-employment in a dust exposure occupation in the capacity of an applicant only.

Holder of
endorsed or
miner's
certificate

(12) Where the holder of an endorsed certificate or miner's certificate has been out of employment in the mining industry for a period exceeding two years and during such period has failed,

through neglect on his part, to obtain a miner's certificate or to have a miner's certificate renewed, his certificate is void and the holder thereof is eligible for re-employment in a dust exposure occupation in the capacity of an applicant only.

(13) Where the holder of a certificate has been out of employment in the mining industry for a period exceeding three years, he is eligible for re-employment in a dust exposure occupation in the capacity of an applicant only. Where un-employment exceeds three years

(14) The manager or superintendent of the mine at which the holder of a certificate is employed may require the certificate to be delivered to and left in the custody of the manager or superintendent during the period of the holder's employment at the mine, but the certificate shall be returned to the holder upon the termination of his employment at the mine. Custody of certificate

(15) The chief engineer may exempt from subsections 2 to 14 any mine or any person employed thereat where, in his opinion, the mine does not contain silica in quantity likely to produce silicosis or where for any other reason he is of the opinion that such subsections should not apply. Exemption

(16) Subsections 2 to 14 do not apply to a person usually employed in a dust exposure occupation for less than fifty hours in each calendar month. Idem

(17) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the nature of the examination to be made by a medical officer under subsections 6 to 11;
- (b) prescribing the forms of certificates and extensions, endorsements and renewals thereof;
- (c) generally for the better carrying out of this section. 1970, c. 79, s. 2, *part.*

REHABILITATION OF TAILINGS DISPOSAL AND PLANT AREAS

176.—(1) The mine manager shall plant and maintain vegetation, or otherwise stabilize the tailings areas which will not be required for future impoundment of tailings to the satisfaction of the district engineer of mines. Stabilization of tailings areas

(2) At least one year prior to cessation of operation, the mine manager shall submit to the district engineer of mines, two copies of a plan showing, Idem

- (a) the extent of the tailings area on which planting of vegetation or stabilization must still be completed; and
- (b) the rehabilitation that is to be done in the mine or plant area, together with descriptive information.

Idem	(3) The rehabilitation work mentioned in subsection 2 shall be completed to the satisfaction of the chief engineer of mines.
Bond	(4) A bond or security deposit in an amount considered necessary by the chief engineer of mines to complete the rehabilitation mentioned in subsection 2 shall be deposited with the Department.
Protection of unused workings	(5) Where a mine has been abandoned or where the work in it has been discontinued, the owner or lessee or any other person interested in the mineral of the mine shall cause the top of any shaft or raise opening to the surface to be solidly bulkheaded with reinforced concrete at bedrock or on top of the concrete collar of such opening, except that where in the opinion of the district mining engineer this is impracticable, the requirements of subsection 2 apply.
All other openings and pits	(6) All other openings and pits, dangerous by reason of their depth or other conditions, shall be and shall be kept securely fenced or otherwise protected against inadvertent access to the satisfaction of the district mining engineer, but where in his opinion the mine or workings present no greater hazard than the natural topographic features of the area, this provision need not be complied with.
Failure to erect fence after notice	(7) Every such person who, after notice in writing from the district mining engineer, fails to comply with his directions as to such fencing or protection within the time specified in the notice is guilty of an offence against this Act.
When engineer may erect fence	(8) Where the district mining engineer finds that any such fencing or protection is required in order to avoid danger to health or property, he may cause the work to be done and may pay the costs incurred out of any moneys provided for the purposes of this Act, and the amount of such costs with interest thereon is a lien upon the mine or mining work of which notice in such form as the Minister may prescribe may be registered in the proper registry or land titles office, and no further transfer or other dealings with the mine or mining work shall take place until such amount is paid.
Recovery of costs of work	(9) The amount of such costs with interest thereon is due from the owner or lessee to the Crown and is recoverable at the suit of the district mining engineer in any court of competent jurisdiction.
Discharge of fencing liens	(10) Notwithstanding subsections 8 and 9, the Minister, either without payment or on such terms and conditions as he considers proper, may cause a cessation of charge to be registered in the proper registry or land titles office, and thereupon the lien registered under subsection 8 is void and of no effect. 1970, c. 79, s. 2, <i>part, amended</i> .

RESPONSIBILITY AS TO PROVISIONS

177.—(1) The owner or agent of an operating mine or plant shall appoint a manager who is responsible for the control, management and direction of the mine or plant.

Responsi-
bility as to
carrying
out
require-
ments

(2) The owner or agent shall provide the manager of a mine or plant with the necessary means and shall afford him every facility for complying with this Part.

Owner to
give facilities
to manager
to comply

(3) Subject to the requirements of this Act and except as otherwise provided in this Act, responsibility for the authorization and decisions as to the qualifications of employees rests with the employer or his agent.

Responsi-
bility as to
qualifica-
tions

(4) The manager of an operating mine or plant shall appoint one or more suitable persons who are responsible, during the manager's absence, for taking all necessary and reasonable measures to enforce the requirements of subsection 6.

Manager's
absence

(5) It is the duty of every manager, supervisor or other person in charge of workmen and every hoistman, deckman, conveyance attendant or person who handles explosives or blasting agents or who operates, installs or maintains any equipment, machinery or electrical apparatus in or about a mine or plant, to know the requirements of this Part that apply to the work under his charge and direction or in which he is engaged.

Duty as to
knowledge
of
requirements

(6) Except as to any provisions that the chief engineer has directed are not applicable thereto, the manager of the mine or plant shall take all necessary and reasonable measures to enforce the provisions of this Part and to ensure that they are observed by every employee of the mine or plant, and every supervisor shall take all necessary and reasonable measures to enforce the requirements of all such provisions as are applicable to the work over which he has supervision and to ensure that they are observed by the persons under his charge and direction.

Manager,
etc., to
enforce
requirements

(7) The manager of a mine or plant may make rules not inconsistent with any provision of this Part or any special direction made by an engineer as herein provided for the maintenance of order and discipline and the prevention of accidents in or about the mine or plant, and may submit any rule so made to the chief engineer who shall lay the rules before the Minister for his approval, and, upon such approval being given, the rules take effect after they have been posted up in a conspicuous place at the mine for at least fourteen days, but the Minister may disallow any of such rules or direct such changes to be made in them as he considers proper.

Manager
may make
rules

(8) Every such rule, after approval and when and so long as it is posted up and is legible, has the same force and effect as the

Offence

provisions of this Act, and any person who contravenes any such rule is liable to the penalty provided for a breach of the provisions of this Act.

Suspension
of provision

Idem

(9) Where the owner, agent or manager of a mine or plant, by an application in writing stating the reasons therefor, requests the engineer to suspend any of the requirements of sections 181 to 604 as to such mine or plant, the chief engineer may in writing direct that the requirements of any such provision do not apply to such mine or plant, or may in writing direct that any such provision does not apply so long as such limitations and conditions as he sees fit to impose are observed or complied with, and the owner, agent, or manager shall forthwith post in a prominent place a copy of the chief engineer's suspension and the terms and requirements thereof, so that any such suspension may be drawn to the attention of the employees affected.

Cancellation
of
suspension

(10) The chief engineer may at any time cancel any order made under subsection 9 or make such alterations therein as he considers proper in view of any change in the conditions under which the order was made or upon it appearing to him that such change is advisable for any other reason.

Knowledge
of English
language

Idem

(11) Every person who is engaged exclusively in supervising the work of other persons at a mine or plant shall be able to give and to receive and understand orders in the English language.

Lifting
safely

(12) Every person in charge as a deckman, conveyance attendant or hoistman at a mine or plant shall have a knowledge of the English language adequate to enable him to carry out his duties in a thoroughly safe manner.

(13) No owner, agent or manager shall require a person to lift, carry or move anything so heavy or in such manner as to be likely to endanger his safety or the safety of any other person in a mine or plant.

Adequate
training
for
employee

(14) Every manager shall ensure that no person works without supervision at any machine unless the person,

- (a) has received adequate training and instruction in the operation of the machine and any dangers connected therewith;
- (b) has received adequate supervision by a person having thorough knowledge and experience with the machine; and
- (c) is capable of safely operating the machine without supervision.

Operation of
machines
and devices

(15) No manager, supervisor or his agent who has reasonable cause to believe that any machine or device in or about a mine or plant is unsafe or in contravention of this Act shall cause or permit it to be used or operated.

(16) No person who has reasonable cause to believe that any machine or device, which has been assigned to him for use in or about a mine or plant, is unsafe or in contravention of this Act shall use the machine or device until he has, Idem

- (a) reported the defect to his supervisor; and
- (b) obtained specific instructions in writing from his supervisor to use or operate the machine or device.

(17) No person shall use or operate any machine or device in or about a mine or plant in an unsafe manner or in a manner that does not comply with this Act. Idem

(18) No person in a mine or plant shall engage in any contest, feat of strength, unnecessary running or rough or boisterous conduct that is likely to endanger the safety of any person. Boisterous conduct

(19) Where work in or about a mine or plant is let by the owner, agent or manager to a contractor, Responsibility of contractors, etc.

- (a) the owner, agent or manager shall, except for work involving surface prospecting, give written notice to the chief engineer and to the district mining engineer, resident in that part of Ontario in which the mine or plant is situated that a contract has been made;
- (b) the contractor shall give written notice to the chief engineer and to the district mining engineer resident in that part of Ontario in which the mine is situated of any subcontract that has been made;
- (c) the contractor or a subcontractor, as the case may be, shall appoint a person to be in charge and responsible for the work being done by the contractor or the subcontractor;
- (d) the person so appointed by the contractor or the subcontractor shall comply and enforce compliance with all the provisions of this Part pertaining to the work over which he has control and is, in any case of non-compliance therewith, guilty of an offence and punishable in like manner as if he were the owner, agent or manager;
- (e) where the prime contractor has two or more subcontractors working on a project on surface, the prime contractor shall,
 - (i) appoint a person to have authority to enforce compliance with all the provisions of this Part on all the work of the project, and
 - (ii) provide and maintain first-aid requirements in accordance with regulations under *The Workmen's Compensation Act*. 1970, c. 79, s. 2, part.

R.S.O. 1970,
c. 505

178.—(1) Every person employed at a mine or plant shall take all necessary and reasonable measures to carry out his duties Measures to be taken

in accordance with such provisions as are applicable to the work in which he is engaged.

Incurring
penalties

(2) Every person through whose neglect or wrongful act a contravention occurs at a mine or plant shall be deemed to have incurred the penalties provided for a breach of the provisions of this Part. 1970, c. 79, s. 2, *part*.

REQUIREMENTS

Require-
ments

179. Subject to sections 177 and 178, sections 181 to 604 shall be observed and carried out at every mine and plant. 1970, c. 79, s. 2, *part*.

Interpre-
tation

180. In sections 181 to 604,

- (a) "blasting agent" means a type of explosive of low sensitivity that cannot, as mixed and packaged for use, be detonated by a single No. 8 detonator, and, unless specified, the requirements for explosives do not apply to a blasting agent;
- (b) "boatswain's chair" means a suspended scaffold in the form of a seat used by one person in a sitting position and supported by slings attached to a suspended rope, and includes the wearing of a safety belt by the person;
- (c) "charge" means,
 - (i) explosives and a detonator,
 - (ii) a blasting agent and a detonator, or
 - (iii) a blasting agent and a detonator and primer that is exploded as a single unit;
- (d) "drum hoist" means the type of hoist that spools the rope on the hoist drum;
- (e) "explosives" includes detonators and those powders that are cap sensitive with a single detonator as packaged for use, and includes black blasting powder;
- (f) "fire-resistive" when applied to buildings, structures or parts thereof, means constructed in an approved manner of steel, masonry, reinforced concrete, or other equivalent materials, or any combination of such materials;
- (g) "friction hoist" means the type of hoist where the rope is driven by the friction between it and the drum tread and where the rope is not spooled on the hoist drum but passes over or around it;
- (h) "safety belt" means a belt worn round the waist of a person and includes the rope and necessary fittings attached to the belt, which shall be suitable for their purpose, and the safety belt shall be of sufficient

strength to absorb twice the load of energy which, under the circumstances of its use, could be transmitted to it;

- (i) "safety harness" means a combination of a belt worn round the waist of a person and straps attached to the belt and passing over the person's shoulders, with the necessary rope fittings and assembly that meets the strength requirements of a safety belt and is suitable for raising the person by the rope without permitting the body of the person to bend at the waist;
- (j) "shot" means the sound of a charge or charges being exploded;
- (k) "therm-hour" means 100,000 British thermal units per hour or 39.3082 brake horse-power;
- (l) "utility hoist", including "tugger hoist" other than a hoist designated as a "construction hoist", means a powered hoist used for handling materials only in or about a mine or plant, and the safety requirements may be designated by the district electrical-mechanical engineer according to the conditions of use,

and the decision of an engineer as to whether or not a situation complies with a requirement therein in which "suitable", "adequate", "approved", or any expression of like import, is used and as to the meaning and application of any such expression is final and conclusive, and a certificate of any such decision signed by the engineer may be used as evidence in any court. 1970, c. 79, s. 2, *part.*

PERSONAL PROTECTIVE EQUIPMENT AND CLOTHING

181.—(1) An approved safety hat and approved safety footwear shall be worn by every person employed,

Safety
hats and
footwear

- (a) underground in a mine;
- (b) in a location in a pit or quarry designated by the district mining engineer.

(2) The manager shall designate such other areas or occupations and circumstances where any or all of the following items shall be worn by every person employed therein:

Designated
areas for
protective
equipment

1. Approved safety hat.
2. Approved safety footwear.
3. Approved eye protective equipment.
4. Approved hearing protective equipment.
5. Approved breathing apparatus.
6. Any other approved personal protective equipment which the job in question may require.

Hearing
protection

(3) The manager shall ensure that all steps practicable are taken to prevent injury to the hearing of a person from excessive noise.

Masks,
respirators,
etc.

(4) Where applicable, masks or respirators of an approved type and design for the hazard involved shall be worn by persons who are exposed to dust, gases, or irritating and dangerous fumes.

Idem

(5) Every person shall properly maintain his mask or respirator.

Idem

(6) Emergency breathing apparatus, where required, shall be maintained in condition for immediate use, and

(a) the manager shall designate a responsible person to regularly inspect, sterilize and perform any necessary maintenance on such apparatus; and

(b) such apparatus, when not in use, shall be stored in a dust-tight container.

Safety
belts, etc.

(7) There shall be provided and maintained in safe condition safety belts or safety harnesses for the use of persons where necessary.

Idem

(8) Every person shall properly maintain his safety belt or safety harness.

Duty to
wear
safety
equipment

(9) Every person employed at a mine or plant shall,

(a) use or wear the personal protective clothing and equipment required by this Part; and

(b) properly maintain his personal protective clothing and equipment. 1970, c. 70, s. 2, *part*.

FIRE PROTECTION — MINES

Application
of ss. 183-
203 and
ss. 567-571

182. Sections 183 to 203 and sections 567 to 571 apply at mine operations underground and in the vicinity of shaft collars. 1970, c. 79, s. 2, *part*.

Procedure

183.—(1) General procedure to be followed both on surface and underground in case of fire underground or in a mine plant building that may endanger the mine entrance shall be drawn up, and all persons concerned shall be informed and kept informed of their duties.

Posting

(2) Copies of the procedure or suitable excerpts shall be kept posted in the shafthouse and other prominent places.

Tests

(3) A test of the effectiveness of such procedure shall be made at least once a year and a report of the effectiveness of the test shall be made available to the district mining engineer. 1970, c. 79, s. 2, *part*.

Stench
warning

184.—(1) Every mine worked from shafts or adits producing over 100 tons of ore per day and such other mines as are designated by the district mining engineer shall be equipped with

an approved apparatus for the introduction into the mine workings of ethyl mercaptan or other warning gas or material approved by the chief engineer, and such apparatus shall be available at all times in a suitable location and kept ready for instant use for the purposes of warning persons underground of any emergency necessitating a speedy evacuation of the workings.

(2) A test of the effectiveness of the warning and procedure described in subsection 1 shall be made at least once a year and a report of the effectiveness of the test shall be made available to the district mining engineer. Idem

(3) Every person employed underground shall have the meaning of the warning explained to him, and he shall be acquainted with the smell of the warning gas. 1970, c. 79, s. 2, *part*. Idem

185.—(1) No flammable refuse shall be allowed to accumulate underground but shall be removed from the workings at least once a week and brought to the surface and there disposed of in a suitable manner. Flammable refuse

(2) No flammable refuse shall be allowed to accumulate in or about a headframe, shafthouse or any plant building in which a fire may endanger the mine entrance. Idem

(3) Suitable fire-resistive containers for the temporary disposal of flammable refuse such as scrap paper, oily waste, rags and other similar materials shall be provided at all shaft stations, underground shops, lunch rooms and enclosures necessary for the housing of machinery or equipment or stores and buildings mentioned in subsection 2, and such containers shall be regularly emptied. Idem

(4) All timber not in use in a mine shall, as soon as is practicable, be taken from the mine and shall not be piled up and permitted to decay therein. Unused timber

(5) Every shift boss or mine captain shall certify in writing to the mine manager at least once a week that there is no accumulation of flammable refuse underground in the area under his supervision except as reported by him. Certificate as to flammable refuse

(6) Oil, grease or other flammable material shall not be stored in a shafthouse or portalhouse, but it is permissible, if adequate precautions are taken, to have in the shafthouse or portalhouse, for distribution only, an amount not exceeding the requirements for one day's operation. Storage of oil and grease

(7) Volatile, flammable liquids shall not be stored in a shaft-house or portalhouse and such material shall be transported underground only in approved types of containers. Volatile, flammable liquids

Oil and
grease
under-
ground

(8) Oil, grease or volatile flammable liquid while underground shall be contained in suitable metal receptacles, and the amount of oil or grease so kept underground shall not exceed the requirements for seven days and the amount of volatile flammable liquid kept underground shall not exceed the requirements for the current day's work.

Idem

(9) The transfer of liquid fuels from one container to another by the direct application of air under pressure shall not be permitted, except where properly designed and tested equipment is used for this purpose. 1970, c. 79, s. 2, *part*.

Building
fires
prohibited

186. No person shall build, set or maintain a fire underground for any purpose unless he has proper authority and suitable instructions for so doing, and only after the necessary fire-fighting equipment has been provided. 1970, c. 79, s. 2, *part*.

Open-flame
lights,
precautions

187. Where open-flame lights are used at a mine not equipped with a headframe and shafthouse or portalhouse constructed of fire-resistive materials, the interior of the shafthouse or portalhouse shall be tightly sheeted with metal or a suitable fire-resistive material to a height of eight feet. 1970, c. 79, s. 2, *part*.

Under-
ground
structures

188. All underground shops, lunch rooms and buildings or enclosures necessary for the housing of machinery, equipment and stores shall be constructed of fire-resistive material and so located and maintained as to reduce the fire hazard to a minimum. 1970, c. 79, s. 2, *part*.

Fire
hazard
areas

189.—(1) If the engineer is of the opinion that a fire hazard may be created at a mine by smoking, or by the use of open-flame lamps, matches, or other means of producing heat or fire, he may designate the mine or part or parts of the mine as a fire hazard area.

Idem

(2) No person shall smoke or be allowed to smoke, use open-flame lamps, matches or other means of producing heat or fire in such areas except with the permission in writing of the engineer and under such conditions as he considers proper.

Idem

(3) Such fire hazard areas shall be properly identified by suitable warning signs.

Idem

(4) The manager shall cause such signs to be installed and maintained as long as the area is so designated. 1970, c. 79, s. 2, *part*.

When
flammable
gas en-
countered
in mine

190. When a flammable gas in dangerous concentrations has been found to exist in a mine working, such working or the parts of such working concerned shall immediately be considered a fire hazard area, and every precaution shall be taken while clearing the area or doing any work therein to prevent ignition of the gas and these precautions shall be continued as long as the hazard exists. 1970, c. 79, s. 2, *part*.

191.—(1) Suitable fire-fighting equipment shall be provided and maintained in or about every headframe, shafthouse, portalhouse and every plant building in which a fire may endanger the mine entrance and at every shaft or winze station underground. Fire-fighting equipment

(2) Suitable fire-fighting equipment shall be provided and maintained at all underground crushers, pump stations, tipples and underground electrical installations except where, in the opinion of the engineer, no fire hazard exists. Idem

(3) A properly authorized person or persons shall make a monthly inspection of all fire-fighting equipment referred to in subsections 1 and 2, and shall make a report in writing to the manager stating that such examination has been made and certifying as to the conditions found. 1970, c. 79, s. 2, *part*. Idem

192.—(1) Calcium carbide shall be stored on the surface only, in a suitable, dry place, other than the shafthouse or portalhouse or changehouse, and in its original unopened container. Storage of carbide

(2) For the purpose of distributing calcium carbide, adequate provisions for the handling of quantities not in excess of one day's supply or 100 pounds, whichever is the greater, shall be made at every mine. Distribution of carbide

(3) Such distribution shall not take place in a shafthouse, portalhouse or changehouse unless such structure is fire-resistive but shall be provided for by the installation of a suitable distribution centre not closer than fifty feet to the nearest point of any part of the headframe, shafthouse or portalhouse. Idem

(4) Adequate precautions shall always be taken to ensure that calcium carbide is handled in a safe manner and no calcium carbide shall be taken underground except in suitable containers. 1970, c. 79, s. 2, *part*. Handling of carbide

193. Where operations involving the use of acetylene, kerosene, gasoline or other torches are conducted in a headframe, shafthouse, portalhouse or other building in which a fire may endanger the mine entrance or the underground workings of a mine, suitable measures for protection against fire shall be adopted and rigidly adhered to. 1970, c. 79, s. 2, *part*. Fire protection where torches used

194.—(1) Where cylinders of compressed gas, such as acetylene or oxygen, are transported underground for any cutting or welding operation, all fittings, such as regulators and manifolds, shall be disconnected from the cylinders and the valves shall be protected in a suitable manner. Underground transportation of compressed gases

(2) Any such removable protective device shall be replaced at any time a cylinder is left unattended or before a cylinder is moved to a new location. Idem

Operation
of welding
and cutting
torches

(3) In all cases where cylinders of compressed gas are operated from within any cage, skip or other shaft conveyance, or where the cylinders are set up in a location not readily accessible to the person operating the nozzle equipment, a second competent person shall be employed at all times to attend to the operation of the cylinder-control devices.

Compressed
gas

(4) In all cases where cylinders of compressed gas are used underground for the purpose of supplying cutting or welding equipment, special precautions shall be observed to avert the possibility of damage to or failure of the regulators, manifolds and hoses used in conjunction with the equipment. 1970, c. 79, s. 2, *part, amended*.

Generation
of gas
under-
ground
forbidden

195. No device for the generation of gas, such as acetylene for supplying cutting or welding equipment, shall be used in the underground workings of a mine. 1970, c. 79, s. 2, *part*.

Escape-
ment exit

196.—(1) In every mine where a vertical or inclined shaft has been sunk or an adit driven and stoping has commenced, there shall be provided and maintained, in addition to the hoisting shaft or the opening through which persons are let into or out of the mine and the ore extracted, a separate escapement exit.

Location
and cover
of exit

(2) Such exit shall be outside any structure covering the main entrance to the mine and shall be isolated by a distance of not less than 100 feet from the main entrance.

Idem

(3) Any structure covering such exit shall be of fire-resistive material and so constructed to reduce the fire hazard to a minimum.

When
necessary

(4) If such an escapement exit is not in existence at the time that stoping is commenced, work upon it shall be begun as soon as stoping is commenced and shall be diligently prosecuted until it is completed, and means of escapement, other than the main outlet of the mine, shall be provided to and connected with the lowest level on which stoping operations are being carried on.

Size of
exit

(5) The escapement exit shall be of sufficient size to afford an easy passageway and, where necessary, shall be provided with good and substantial ladders from the deepest workings to the surface.

Monthly
exit
inspection

(6) The manager shall depute some competent person or persons to make an inspection of such escapement exit at least once a month.

Record of
inspection

(7) A record of such inspection and the conditions found shall be made in writing by the person making it.

Legible
signs
showing
exits

(8) Legible signs showing the way to escapement exits shall be posted in prominent places underground and all persons employed underground shall be instructed as to the location of the escapement exits. 1970, c. 79, s. 2, *part*.

197.—(1) Unless there is first provided a second means of exit from the mine workings, no building of other than fire-resistive construction shall be erected within fifty feet of any closed-in part of a headframe or portalhouse, except that the fire-resistive building housing the hoist and power plant equipment may be erected within this distance so long as such distance is not less than thirty-five feet.

Buildings
in
proximity
to mine
entrance

(2) Where a hoist is located above the mine shaft, the supporting and enclosing structures shall be of fire-resistive material. 1970, c. 79, s. 2, *part*.

Idem

198. No steam boiler or diesel engine shall be installed in such a manner that any part thereof is within seventy-five feet of the centre line of the collar of a shaft or other entrance to a mine. 1970, c. 79, s. 2, *part*.

Location of
boilers and
diesel
engines

199. A gasoline or other internal combustion engine using highly volatile liquids or flammable gases shall not be installed, serviced, garaged or stored in or within fifty feet of the building housing the hoist or within 100 feet of the centre line of the collar of a shaft or other entrance to a mine. 1970, c. 79, s. 2, *part*, *amended*.

Location of
internal
combustion
engines

200.—(1) Except for the actual fuel tanks of operating equipment, no storage of gasoline or liquid fuel shall be permitted within 100 feet of the collar of a shaft or other entrance of a mine.

Storage of
liquid
fuels

(2) The natural drainage from such a location shall be such that the flow is in a direction opposite to the location of any such shaft or mine entrance. 1970, c. 79, s. 2, *part*.

Idem

201.—(1) Where practicable, there shall be a sufficient number of suitable fire doors installed underground to cut off the shaft and the mine openings directly associated with it from the other workings of the mine.

Fire doors

(2) Fire doors shall be maintained in proper order and kept clear of all obstructions so as to be readily usable at all times. 1970, c. 79, s. 2, *part*.

Properly
maintained

202. Where the chief engineer considers it necessary or advisable for the protection of persons employed underground, he may order refuge stations to be provided and maintained at such places in the mine as he may direct, and every such refuge station shall have water, air and telephone connections to the surface and be separated from the adjoining workings by closeable openings so arranged and equipped that gases can be prevented from entering the refuge station. 1970, c. 79, s. 2, *part*.

Refuge
stations

Connection
between
mines

203.—(1) Where the chief engineer considers it necessary or advisable for the protection of persons employed underground, he may recommend in writing to the Minister that a connection between mines be established at such places as he considers advisable and he may further recommend that such connection be so made and equipped as to constitute a refuge station or refuge stations.

Idem

(2) Upon the approval by the Minister of any such recommendation, a copy thereof, accompanied by a copy of this section, shall be served personally upon or sent by registered mail to the owner or the agent and the manager of each of the mines affected.

Committee

(3) Upon the approval of such a recommendation of the chief engineer, the Minister may in writing signed by him direct each of the mining companies concerned to appoint a representative to act in its behalf on a committee under the chairmanship of a third party, who shall be a mining engineer recommended by the chief engineer and appointed to the chairmanship of the committee by the Minister, and the committee shall determine,

- (a) the design, specifications and location of the connecting passages, bulkheads or other structures to be constructed in order to safeguard the present and future operations of the mines affected;
- (b) the work to be done by each of the mines affected and the proportion in which the cost of the work and of establishing and maintaining the connection shall be borne by the owners or agents of the mines affected;
- (c) the time at which the work in compliance herewith shall be commenced and completed;
- (d) the proportion in which the costs and expenses of the committee shall be borne by the owners or agents of the mines affected; and
- (e) such other provisions or requirements as in the premises they consider necessary or advisable.

Idem

(4) The committee shall submit a report in writing to the Minister, and a report of the majority of the committee shall be deemed to be the finding of the committee.

Idem

(5) Upon the approval by the Minister of the report of the committee, the chief engineer may issue his order for the establishment and maintenance of such connection and refuge station or stations (if any are recommended) in accordance with the terms of the report.

Idem

(6) A copy of the report shall be attached to the order and forms a part thereof.

Idem

(7) No such order is subject to appeal upon any ground whatsoever and is enforceable in the same manner as any order of the chief engineer. 1970, c. 79, s. 2, *part*.

FIRE PROTECTION—PLANTS

204.—(1) Suitable fire-fighting equipment shall be provided and maintained in or about every plant building. Fire-fighting equipment

(2) Procedures for fighting fire in plant buildings shall be drawn up and suitable signs pertaining to and excerpts from the procedures shall be kept posted in prominent places. Idem

(3) A properly authorized person or persons shall make a monthly inspection of all fire-fighting equipment and shall make a report in writing to the manager stating that such examination has been made and certifying as to the conditions found. 1970, c. 79, s. 2, *part*. Idem

205.—(1) Where an internal combustion engine is installed at a plant, provision shall be made for safely conducting the exhaust of such engine to a point well outside the building. Exhaust of internal combustion engines

(2) The exhaust shall be so arranged as to avert the possibility of fumes re-entering the building or entering the intake of an air compressor or contaminating the atmosphere of any adjacent buildings or mine workings. 1970, c. 79, s. 2, *part*. Idem

206.—(1) The fuel tanks of an internal combustion engine installed in a building shall be so arranged that the actual transfer of fuel to the fuel tank takes place at a point outside the building and the fuel is conducted to the tank in a tightly-jointed pipe or conduit. Transfer of liquid fuel

(2) Similar provisions for the escape of displaced air from the fuel tank shall be made whereby the displaced air will be conducted to a safe point outside the building before being discharged into the atmosphere. 1970, c. 79, s. 2, *part*. Idem

207. Any dangerous, flammable, or explosive material or substance in a solid, liquid or gaseous state or any combination of them, other than manufactured explosives and blasting agents, that is kept, stored or handled, in a plant, Dangerous materials

- (a) shall be kept in a container that is suitable having regard to the nature and state of the material or substance; and
- (b) shall be kept apart or insulated from any reasonably foreseeable source of ignition or from temperatures likely to cause combustion,

and where the material or substance is kept, stored or handled for a purpose other than immediate use, it shall be kept, stored or handled,

- (c) outside any building;
- (d) in a building not used for any other purpose; or

- (e) in a fire-resistive compartment satisfactory to the district mining engineer as to location and construction. 1970, c. 79, s. 2, *part*.

Exits

208.—(1) All plant buildings, except those used for the storage of explosives and blasting agents, shall be provided with adequate and properly maintained means of egress, convenient to and having easy communication with all rooms, regularly occupied by a person, including,

- (a) tower stairs of fire-resistive construction equipped with fire-resistive doors and hardware, satisfactory to an engineer, at each storey including the basement; and
- (b) where permitted by an engineer, metal or other non-combustible fire escapes consisting of exterior stairways with railings and with landings at each storey connecting directly with the interior of the building through metal or other fire-resistive doors.

Idem

(2) No means of egress from a plant building shall be obstructed and no door to a fire escape, tower stair or other smoke-proof enclosure shall be prevented from closing or remaining closed.

Idem

(3) Notwithstanding that a door is locked to prevent ingress to a building or room, the door shall be deemed to be not locked, bolted or barred if it is provided with a mechanism for unlocking it quickly from the inside that requires no special skill, effort or previous knowledge for its operation. 1970, c. 79, s. 2, *part*.

Dangerous material

209. Where,

- (a) any grinding, polishing, screening or other process is likely to produce dust or other particles of such size or character and to such an extent as to be capable of producing a flammable mixture; or
- (b) any mixing, handling, dispensing or storage of any material is likely to produce a gas, vapour or mist of such character and to such extent as to be capable of producing a flammable mixture,

all practicable steps shall be taken to,

- (c) enclose the equipment used in the process;
- (d) prevent or remove any accumulation of dust, vapour, gas or mist that may escape from the enclosure;
- (e) exclude or effectively enclose all potential sources of ignition of the flammable mixture;
- (f) restrict the spread and effects of any burning or explosion by the provision of vents, baffles, chokes or other devices satisfactory to an engineer; and

- (g) when so directed by an engineer, create and maintain an inert atmosphere in contact with dust or other particles mentioned in clause *a* or mixed with the gas, vapour or mist mentioned in clause *b*. 1970, c. 79, s. 2, *part, amended*.

AID TO INJURED

210.—(1) At every mine or plant, there shall be maintained a sufficient number of properly constructed stretchers for the proper handling and transporting of persons who are injured. Stretchers

(2) There shall be provided and maintained at every mine or plant, for the treatment of any persons injured, such personnel, equipment and vehicles and such first-aid supplies as are required by the regulations under *The Workmen's Compensation Act*. 1970, c. 79, s. 2, *part*. First-aid supplies
R.S.O. 1970,
c. 505

ENVIRONMENTAL CONDITIONS

SANITATION—MINES

211. There shall be provided in the workings of a mine suitable sanitary conveniences in accordance with the following requirements: Sanitary conveniences, mines

1. Where persons are employed underground, one sanitary convenience for every twenty-five persons or portion thereof on any shift.
2. The sanitary conveniences mentioned in item 1 shall be conveniently placed, having regard to the number of persons employed on the different levels, in a well-ventilated part of the mine.
3. Where persons are employed at an open pit or a clay, sand or gravel pit or quarry, one sanitary convenience and one urinal for every twenty-five persons or portion thereof on any shift.
4. The sanitary conveniences mentioned in items 1 and 3 shall be kept clean and sanitary and the content disposed of regularly. 1970, c. 79, s. 2, *part*.

212. Any person depositing faeces in any place underground, other than in a sanitary convenience provided, is guilty of an offence against this Act. 1970, c. 79, s. 2, *part*. Idem

213.—(1) A supply of potable water shall be provided in mine workings on surface and at points underground reasonably accessible to the working places. Drinking water

Idem (2) All locations where a supply of potable water is provided shall be kept in a clean and sanitary condition.

Standard of drinking water (3) All supplied potable water in a mine shall be governed by the standard of drinking water objectives set by the Ontario Water Resources Commission.

Lunchrooms (4) The manager shall provide underground, where more than fifteen persons congregate to eat, an area or place sufficiently large to accommodate all such persons.

Idem (5) Every such area or place shall be adequately heated and ventilated and shall be provided with an adequate supply of warm water, soap and paper towels. 1970, c. 79, s. 2, *part, amended*.

Dressing rooms **214.**—(1) If persons are employed underground or in hot or dusty occupations on surface at a mine, suitable and sufficient accommodation, including supplies of clean, cold and warm water for washing themselves shall be provided above-ground near the principal entrance of the mine to enable such persons to conveniently dry and change their clothes.

Idem, location (2) Such accommodation, unless of fire-resistive construction, shall not be nearer than fifty feet to a shafthouse or portalhouse and it shall not be located in a hoistroom or boilerhouse unless a separate, properly constructed room is provided.

Transportation to washing facilities (3) Wherever, at a pit or quarry, the facilities referred to in subsection 1 are located at a distance from the place of work, adequate transportation shall be provided. 1970, c. 79, s. 2, *part, amended*.

SANITATION—PLANTS

Sanitary conveniences, plants **215.**—(1) There shall be provided in every plant suitable, separate wash and toilet rooms for male and female persons that are conveniently accessible and in accordance with the following requirements:

1. Where fewer than six persons are employed, a room containing a wash basin and a flush toilet and having a door that has a locking device on the inside.
2. Where six or more persons are employed, there shall be provided for the number of employees of each sex in a group itemized in column 1 of the Table not less than the number of separate flush toilets and separate wash basins for each sex opposite thereto in column 2.

TABLE

Item	COLUMN 1		COLUMN 2	
	No. of male Employees	No. of female Employees	No. of	
			Toilets	Wash-basins
1	1 to 9	1 to 9	1	1
2	10 to 24	10 to 24	2	2
3	25 to 49	25 to 49	3	3
4	50 to 74	50 to 74	4	4
5	75 to 100	75 to 100	5	5
6	Over 100	Over 100	Add one toilet and one wash basin for each additional thirty employees or fraction thereof.	

3. Notwithstanding item 2,

- i. in toilet rooms for more than nine male employees, urinals shall be substituted for not less than one-quarter and not more than one-half of the number of flush toilets required by item 2, or
- ii. in toilet rooms for more than nine female employees, urinals may be substituted for not more than one-half of the number of flush toilets required by item 2.

4. Subject to item 3, urinals or wash fountains in straight trough form and wash fountains in circular form may be provided in lieu of toilets or wash basins, as the case may be, and,

- i. where a circular wash fountain is provided, each twenty inches of its circumference is deemed to be the equivalent of one wash basin, and
- ii. where a urinal or wash basin in straight trough form is provided, each twenty-four inches of its length is deemed to be the equivalent of one toilet or one wash basin, as the case may be.

(2) Where wash fountains or wash basins are provided, they shall be supplied with hot and cold water from taps or outlets that are satisfactory to an engineer. Wash basins

(3) Water for washing purposes,

Hot water

- (a) shall not exceed 140° Fahrenheit at any outlet; and
- (b) shall not be mixed directly with steam.

Where
privies
permissible

(4) Where the municipality in which the plant is located is not serviced by a water or sewage system and flush toilets cannot be provided, privies or other toilets satisfactory to an engineer shall be provided.

Require-
ments for
toilets

(5) Every toilet for employees and every urinal for female employees shall occupy an individual compartment with a suitable door and lock and the compartment shall have a length of not less than four feet six inches and a width of not less than two feet eight inches.

Idem

(6) The height of any compartment door, wall or partition between toilets for employees and between urinals for female employees may be less than the height of the room but the top of the door or partition shall be not less than five feet six inches from the floor and the bottom not more than one foot from the floor.

Idem

(7) Every compartment shall be supplied with a clothes hook.

Lighting

(8) Every toilet room and washroom shall be adequately lighted and kept in good repair and in a sanitary condition.

Repair

(9) Toilets, urinals and other sanitary conveniences shall be kept in good repair and in a sanitary condition.

Require-
ments for
toilet rooms
and
washrooms

(10) Toilet rooms and washrooms shall,

- (a) have legible signs indicating for which sex the room is provided and be constructed so as to prevent a view of the facilities from outside the room and so as to prevent, as far as is practicable, accidental entry into the room by a person of the opposite sex;
- (b) have provided and maintained for the use of persons a convenient and sufficient supply of clean towels or suitable air dryers, soap or other suitable cleansing agent, toilet paper and in each toilet room used by females a suitable covered receptacle;
- (c) be, where separated, adjacent and connected with a door or doorway;
- (d) have a ceiling height of not less than eight feet with the enclosing walls extended to the ceiling and constructed of material impervious to liquid to a height of not less than four feet;
- (e) have mechanical exhaust to the outdoors at a volume of not less than two cubic feet per minute for each square foot of the floor area of the room, or that have windows or skylights so constructed that, for each toilet and for each urinal in the room, not less than two square feet of the window or skylight can be opened;
- (f) have an opaque window or skylight where necessary to ensure privacy;

- (g) have smooth floors of terrazzo, vitrified tile, mastic tile, asphalt or other equally non-absorbent, easily cleaned material. 1970, c. 79, s. 2, *part*.

216.—(1) There shall be provided, Drinking water

- (a) a supply of potable water in a place where the tap or outlet is distant from any sanitary convenience and, where the supply is not taken directly from a water pipe, the supply shall be contained in a covered vessel having a drain faucet and shall be renewed at least daily;
- (b) where the potable water is not delivered in an upward jet from which the employees can conveniently drink, a sufficient supply of individual drinking cups located near the tap or outlet; and
- (c) except where otherwise permitted by an engineer, at least one tap or outlet for drinking water on every floor where work is regularly performed and within 300 feet of every employee's normal work station.

(2) All supplied potable water in a plant shall be governed by Idem
the standards of drinking water objectives set by the Ontario Water Resources Commission. 1970, c. 79, s. 2, *part, amended*.

217. There shall be provided, Change rooms

- (a) such dressing rooms as an engineer may direct;
- (b) suitable accommodation for clothing not worn by employees during working hours and for work clothes that must be kept separate from street clothes because of the presence of poisonous, irritating or infectious materials; and
- (c) where necessary, adequate facilities for drying work clothes. 1970, c. 79, s. 2, *part, amended*.

218.—(1) The manager shall provide on surface, where more Lunch areas
than fifteen persons congregate to eat, an area or place sufficiently large to accommodate all such persons together with equipment satisfactory to an engineer.

(2) The employer shall ensure that no person takes food into or Idem
eats in a room, area or place where any poisonous substances are exposed or where deleterious vapours, mists, fumes, dust or gases are known to be present or any room, area or place designated by an engineer, and shall ensure that potable water in any such room, area or place is taken directly from a water pipe or fully enclosed container.

(3) No person shall take food into or eat in a room, area or place Idem
referred to in subsection 2. 1970, c. 79, s. 2, *part*.

Existing
plants

219. An engineer may, with respect to a plant in operation before the requirements of sections 215 to 218 came into force, permit the continued use of such sanitary facilities satisfactory to him that are in use therein notwithstanding that such facilities do not comply with the requirements of the said sections. 1970, c. 79, s. 2, *part*.

Lighting

220. Wherever persons are required to work in a plant suitable natural or artificial lighting without unnecessary glare or shadows shall be provided and maintained and where necessary be sufficient to enable a person with normal vision to read dials on control panels or typewritten orders and instructions without eye strain. 1970, c. 79, s. 2, *part*.

VENTILATION AND DUST CONTROL—MINES

Pure air
required

221.—(1) The ventilation in every mine shall be such that the air in all of its workings which are in use shall be free from dangerous amounts of noxious impurities and shall contain sufficient oxygen to obviate danger to the health of anyone employed in the mine.

Mechanical
ventilation
systems

(2) In mine workings where air as described in subsection 1 cannot be obtained by natural ventilation, approved means for mechanical ventilation shall be provided and kept in operation until the workings have been abandoned or until satisfactory natural ventilation has been brought about therein.

Use of
fans

(3) All structures containing fans used in connection with the underground ventilation of a mine shall be constructed of fire-resistive materials.

Heating
mine
air

(4) Any proposed method of heating the underground mine ventilating air shall be submitted for approval to the district electrical-mechanical engineer.

Direct-
fired
heaters

(5) Any proposed method of heating air at a mine, using a direct-fired heater, shall have the design approved by the Department of Energy and Resources Management prior to final acceptance by the chief engineer.

Under-
ground
workings,
examination
of air

(6) Underground workings that are not in a positive ventilation circuit shall be examined before being used in order to ascertain whether dangerous gases have accumulated there or whether an oxygen deficiency exists, and only such persons as are necessary to make the examination shall be allowed to proceed to such places until the workings are safe to work or travel in.

Idem

(7) Such workings shall be barricaded off and posted with signs which warn persons of the hazard.

Idem

(8) Only authorized persons shall enter such posted workings.

Internal
combustion
engine
under-
ground

(9) No internal combustion engine shall be installed or operated in a shaft or adit or in any working in connection with a shaft or adit unless permission in writing from the chief engineer is first obtained.

(10) Every place in a mine, where drilling, blasting or other operations produce dust in dangerous quantities shall be adequately supplied at all times with clean water under pressure or other approved appliance for laying, removing or controlling dust.

Keeping
water
supply to
lay dust

(11) A development heading, such as a drift, cross-cut, raise or sub-drift, shall be furnished with an approved water blast which shall discharge within an effective distance of the face being advanced and shall be applied so as to wet the area for at least fifteen minutes after blasting, and, if such area is not thoroughly wetted prior to the entry of any person it shall be wetted down as soon as possible.

Approved
water
blast

(12) A fresh air supply independent of the air supplied to any machine or drill used therein shall be provided,

Auxiliary
air supply

(a) in every raise;

(b) in every sub-drift over twenty-five feet in length; and

(c) in every stope with one entry and no through ventilation,

and such fresh air supply shall be controlled outside or at the beginning of the heading, and the air shall be turned on by the blaster after he has detonated any blast in the heading.

(13) Before returning to the scene of a blasting operation, every person shall assure himself that sufficient air has been introduced into the working place to drive out or dilute to a safe degree the gases produced in the blasting operation.

Ventilation
of working
places after
blasting

(14) The times for blasting shall be so fixed that persons shall be exposed as little as practicable to dust and smoke. 1970, c. 79, s. 2, *part*.

Time for
blasting

VENTILATION AND DUST CONTROL — PLANTS

222.—(1) There shall be provided a positive supply of fresh air into, and provision for the removal of vitiated air from, a plant building that is sufficient to keep the air reasonably pure and to render harmless, so far as is reasonably practicable, all gases, vapours, dusts or other impurities that are likely to endanger the safety of any person therein.

Pure air
required

(2) The temperature of all plant buildings in which persons are normally required to work shall be regulated so as to be suitable for the work to be performed therein, and so as to be not likely to endanger the safety of any person.

Heating

(3) Any proposed method of heating air at a plant, using a direct-fired heater, shall have the design approved by the Department of Energy and Resources Management prior to final acceptance by the chief engineer.

Direct-fired
heaters

Mechanical
ventilating
systems

(4) There shall be provided and used, where a process is carried on that produces a gas, vapour, dust or other impurity that is likely to be inhaled to an injurious extent by persons in the plant building, such mechanical means satisfactory to an engineer, as are capable of,

- (a) preventing, as far as is reasonably practicable, such inhalation;
- (b) effectively carrying off and disposing of such gases, vapours or dusts; and
- (c) preventing, as far as is reasonably practicable, the recirculation and re-entry of air containing such impurities.

Personal
protective
equipment

(5) Where required, suitable personal protective equipment shall be worn by any person exposed to any hazard mentioned in subsection 4.

House-
keeping

(6) Any place in a plant where dust may accumulate shall be regularly cleaned by vacuum, wet sweeping, wet shovelling or other method that reduces the dissemination of dust into the atmosphere.

Abrasive
blasting

(7) Abrasive blasting or other like operations inside a plant shall be conducted inside an enclosure so constructed and ventilated as to effectively prevent dust from entering the atmosphere of a plant building, but

- (a) if this is impracticable; or
- (b) where the operation is likely to produce silica or other harmful dusts in the atmosphere of the plant,

the person conducting the operation and other persons in the affected area shall wear suitable breathing apparatus.

Confined
spaces
and tanks

(8) Suitable precautions shall be taken to ensure that any tank, vat, chamber, pit, pipe, flue or confined space in a plant that may be entered by any person,

- (a) has a suitable man-hole or other means of easy egress from all accessible parts of the confined space; and
- (b) is safe for entry.

Containers

(9) Any container referred to in this section shall be tested by a qualified person, who shall record the result of each test conducted by him, and these records shall be available to an engineer.

Idem

(10) Where any container referred to in this section has been tested and found,

- (a) unsafe for entry; or
- (b) safe for entry, but may thereafter become unsafe to remain in or enter,

no person shall enter or be allowed to enter or remain in such container unless,

- (c) the person is using a suitable breathing apparatus and wearing a safety belt or safety harness, the free end of the rope of which is held by a person, equipped with a suitable alarm, who is keeping watch outside the container and who is capable of pulling the person from the confined space; and
- (d) the person entering the container is using such other equipment necessary to ensure his safety; and
- (e) there is conveniently available a person adequately trained in artificial respiration. 1970, c. 79, s. 2, *part, amended*.

PROTECTION IN MINES AND PLANTS

223. Where any gas, liquid, vapour or dust is at a pressure other than atmospheric pressure, no person shall open or be allowed to open its container unless, Dangerous pressures

- (a) before any fastening of the container and of any container connected therewith is loosened, any flow into or out of such container is effectively stopped; and
- (b) before any fastening of the container is removed, all practicable steps are taken to adjust the pressure of gas, vapour, liquid or dust in the container so that the pressure equals atmospheric pressure,

and if any such fastening has been loosened or removed, it shall be securely replaced before any gas, vapour, liquid or dust is permitted to enter the container. 1970, c. 79, s. 2, *part*.

224. Plastic pipe with a pressure in excess of 50 pounds per square inch shall not be installed without the approval of the district engineer. 1970, c. 79, s. 2, *part, amended*. Plastic piping

225. The transfer of liquids or solids, including fuels, from one location or container to another location or container by the application of air under pressure shall not be permitted, except where properly designed and tested equipment is used for this purpose. 1970, c. 79, s. 2, *part*. Transfer of liquids or solids by compressed air

PROTECTION IN PLANTS

226.—(1) Every tank, vat or other container for holding a liquid, the top edge of which is less than three feet six inches above the highest floor, ground or platform from which a person might fall into it, shall be securely covered or securely fenced to at least three feet six inches above such floor, ground or platform. Open tanks, vats, etc.

(2) Every silo, bin, hopper or other container or structure that is constructed to discharge from the bottom dry bulk material contained or stored in it shall have the top of the silo, bin, hopper, structure or container, Silos, hoppers, etc.

- (a) provided with a solid cover; or
- (b) guarded with a metal grating or bars; or
- (c) traversed by a gangway; or
- (d) encircled or encompassed at its perimeter by a floor or platform.

Other
safety
pre-
cautions

(3) Where, in the opinion of an engineer, the provisions of subsection 1 or 2 are not practicable, other practicable means satisfactory to the engineer shall be taken to prevent any person from falling into the container.

Gangways,
etc.

(4) Any stair, gangway or platform above, across, inside or outside a container referred to in subsection 1 or 2 shall be,

- (a) at least twenty-two inches wide;
- (b) provided with an upper rail and either an intermediate rail and tow board or equivalent protection on both sides to a height of not less than three feet six inches; and
- (c) securely fixed.

Duty to
maintain

(5) Any covering, fencing, stair, gangway or platform mentioned in this section shall be maintained in a safe condition.

Precautions
on entry

(6) No person shall enter or be allowed to enter or remain in any silo, bin, hopper, or other container or structure for containing or storing bulk material unless,

- (a) all further supply of material thereto is stopped and proper precautions are taken to prevent any further supply; and
- (b) the person is wearing a safety belt or safety harness, and at least one other person, equipped with a suitable alarm is in constant attendance outside the container who is capable of rendering any necessary assistance. 1970, c. 79, s. 2, *part*.

Inspection
of stock
pile

227.—(1) Before any person is allowed to work on a stock pile of ore, limestone, coke or other material, the stock pile shall be inspected by some authorized person whose duty it is to see that it is in a safe working condition.

Working
near bulk
materials

(2) No person shall work or be allowed to work on or near any bulk material that is packaged or on or near any other material that is so piled and disposed as to be likely to endanger his safety.

Exits from
tunnels
under
stockpiles

(3) There shall be provided two exits from a tunnel under a stockpile. 1970, c. 79, s. 2, *part, amended*.

Protection
from
overhead
operations

228. No person shall be employed in a location where another person is working overhead unless such measures for protection are taken as the nature of the work requires. 1970, c. 79, s. 2, *part*.

229.—(1) All passageways and other walking surfaces in a plant shall be maintained in a safe condition and free from obstructions and shall be of sufficient size to ensure that crowding, that is likely to endanger the safety of persons therein, does not occur.

(2) Every opening in a floor or other surface in a plant building that may be used by a person shall be,

(a) protected by a guardrail; or

(b) covered with securely fastened planks or other material capable of supporting any load likely to be imposed thereon.

(3) The maximum safe load that a floor or roof of a plant is capable of bearing shall be conspicuously marked or posted to the satisfaction of an engineer when so directed by him.

(4) Except for approved access ladders to equipment, no ladder shall be installed in a plant at an inclination of more than 70 degrees to the horizontal. 1970, c. 79, s. 2, *part*.

230.—(1) At every plant where poisonous or dangerous compounds, solutions or gases are used or produced, there shall be kept in a conspicuous place, as near the compounds, solutions or gases as is practicable, a sufficient supply of satisfactory antidotes and washes, and there shall be installed eye wash fountains and, where necessary, safety showers, for treating injuries received from such compounds, solutions or gases.

(2) Such antidotes and washes shall be properly labelled and explicit directions for their use affixed to the boxes containing them. 1970, c. 79, s. 2, *part*.

231.—(1) Where an acid or poisonous compound or any other material that is likely to endanger the health of an employee is produced, transferred, used or stored in a plant, due provision shall be made to reduce to a minimum the hazard of handling or storing such material.

(2) Where the provisions taken under subsection 1 do not remove the hazard, personal protective equipment shall be worn by the person exposed to the hazard.

(3) Where such material is present, there shall be posted in a conspicuous place, when so required by the chief engineer, notices stating the dangers involved and the precautions to be taken.

(4) Where required, the employer shall provide the chief engineer with accurate information regarding the percentage of any harmful ingredient in such material.

(5) Any person who, for use in a plant, manufactures, distributes or purchases any material that contains benzol, carbon

tetrachloride, lead or other ingredient that is considered dangerous to health by the chief engineer, shall indicate the presence of such ingredient by a label lettered in legible type, distinctly visible and affixed to each package or container thereof.

Medical
examina-
tion

(6) The chief engineer, on the advice of the director of the Environmental Health Branch of the Department of Health, may require at specified intervals by qualified physicians and at the expense of the employer a physical examination of any person employed in a plant having a process that the chief engineer considers is likely to endanger such person's safety, and the physician shall forthwith send or cause to be sent to such director a report of the examination in a form suitable to the chief engineer.

Idem

(7) The examination required under subsection 6 shall be prescribed by such director and may include an x-ray examination and blood or other tests. 1970, c. 79, s. 2, *part*.

HANDLING MOLTEN MATERIALS

Shields for
protection
against
burning

232.—(1) Persons employed in a plant in the handling of molten materials shall be supplied with suitable shields and appliances to protect them as far as possible against being burned.

Idem

(2) It is the duty of all such persons to use the shields and appliances. 1970, c. 79, s. 2, *part*.

Rescue
apparatus

233.—(1) There shall be maintained in readily accessible places at all plants, where the atmosphere may contain dangerous concentrations of poisonous gases or vapours, detection equipment, breathing apparatus and portable resuscitating apparatus of approved type, with an adequate supply of material for the proper operation of the apparatus.

Trained
personnel

(2) There shall also be on duty in each working shift one or more persons appointed by the manager and trained in the use of breathing and resuscitating apparatus. 1970, c. 79, s. 2, *part*.

Scale cars

234. Each scale car shall be provided with an audible warning alarm that shall be sounded by the operator each time a car is started, or each car shall be equipped with an automatic mechanical warning alarm that will sound when the car is moved. 1970, c. 79, s. 2, *part*.

Pouring of
hot
materials

235.—(1) Every effort shall be made to prevent molten material from coming into accidental contact with cold, damp or rusty surfaces where such contact may cause an explosion.

Examina-
tion of
moulds,
etc.
Filling of
moulds,
etc.

(2) Every ladle or slag pot shall be examined before molten material is placed therein.

(3) When molten material is transported by mechanical means in ladles or slag pots and the safety of persons may be endangered

from splashing, every effort shall be made to ensure that the ladles or slag pots are not filled above a point four inches below the top of the ladle or slag pot.

(4) If such limit is exceeded, the ladle or slag pot shall not be moved until the supervisor or other responsible person has warned the persons required to handle the ladle or slag pot of this condition and has warned all other persons in the vicinity. Idem

(5) The shovel operator shall obtain authorization from the supervisor or other person in charge of a blast furnace before commencing to dig the slag pit. 1970, c. 79, s. 2, *part*. Slag pit

236.—(1) Whenever it becomes necessary for a person to go above the casting floor of an operating furnace, excepting the access to the crane cab or runway and not adjacent to the furnace and having direct egress to the outside, such person shall notify the foreman, or other responsible person, who shall see that there is always a second person in attendance whose duty it is to remain outside the gaseous area and act as a watcher and give the alarm to the casthouse or stockhouse and render every possible assistance in case of gassing or other danger. Blast
furnaces

(2) Safety belts shall be provided and maintained in a readily accessible place for immediate use in case it becomes necessary to rescue a person from the top structure of a furnace or the ancillary equipment in a plant. Safety
belts

(3) All bustle pipes shall be provided with safe working platforms equipped with hand-rails at least three feet six inches in height and, wherever practicable, the platform shall not rest directly on the bustle pipe, but shall be supported on angle bars, so that the floor plate will not become sufficiently hot to cause burns to a person falling on it. Protection
from
bustle pipes

(4) Access to the platform shall be by a stairway provided with hand-rails. Idem

(5) A suitable line of communication by telephone, gong, or other mechanical means, shall be maintained between the furnace top, and all other dangerous places, to the casthouse, skip operator's room or other place where persons are continuously on duty. Line of
communica-
tion

(6) A suitable ladderway or stairway shall be provided from the foundation to the top of the furnace. Stairways
and
ladderways

(7) Unless an approved type of elevator is provided as a means of travel to the furnace top, stairways shall be installed at an angle not greater than 50 degrees from the horizontal and shall be provided with landings or turnouts at intervals of not more than twenty-five feet, measured on the slope, so that it will not be possible for a person to fall from the top to the foundation below. Stairways
protected

Protection
around bell

(8) When ore becomes frozen or jammed in the furnace hopper or bell and a person is required to bar the ore into the furnace, a suitable guard-rail shall be provided to prevent the person from slipping on to the bell. 1970, c. 79, s. 2, *part*.

Supervision
of
hazardous
work
around
furnaces

237. Every supervisor shall personally attend, or appoint a competent person to supervise, any work around a blast furnace in a plant that involves unusual accident hazard, such as,

- (a) work in gas mains or cleaners, tearing out linings, relining, work in the casthouse, work about the stoves, when blowing in or blowing out, and any work about the bells or stock line;
- (b) when the furnace is known to be hanging and liable to slip, he shall see that no person is allowed on top for any purpose; or
- (c) when work beyond that of normal inspection and minor maintenance is to be conducted at the furnace top structure,
 - (i) the blast furnace shall be shut down and the area cleared of operating personnel,
 - (ii) the proper work order shall be obtained from the supervisor,
 - (iii) before the repair work is begun, the area shall be tested for toxic gas and such tests shall be continued as necessary for the protection of the personnel,
 - (iv) breathing apparatus, safety ropes and any additional rescue equipment as necessary shall be available. 1970, c. 79, s. 2, *part*.

HAULAGE — ON SURFACE AND UNDERGROUND

Interpre-
tation

238.—(1) In this Part,

- (a) “locomotive” means a motor vehicle which only operates on rails;
- (b) “motor vehicle” means a truck, automobile or any other vehicle propelled or driven otherwise than by muscular power, and includes trackless haulage equipment;
- (c) “vehicle” includes a motor vehicle and every vehicle drawn or propelled by muscular power.

Warning
equipment

(2) Every locomotive or motor vehicle used on surface at a mine or plant or underground at a mine shall be equipped with a suitable audible signal that shall be maintained in proper working condition.

Warning
equipment
to be used

(3) The audible signal on a locomotive or motor vehicle shall be sounded where practicable when the vehicle starts to move in an enclosed building at a mine or plant or underground at a mine and at such other times as a warning of danger is required.

(4) Every motor vehicle used on surface at a mine or plant or underground at a mine shall be equipped, where practicable, with a suitable warning device which will operate automatically when the motor vehicle starts to move in reverse.

Warning device for backing up

(5) Except when used in adequately lighted buildings or areas, every locomotive or motor vehicle used on surface at a mine or plant or underground at a mine shall be equipped with a headlight or headlights which shall be maintained in proper working condition, and motor vehicles used for trackless haulage shall be equipped with a suitable tail-light or tail-lights which shall be maintained in proper working condition.

Headlight and tail-light

(6) When a motor vehicle is disabled, when lighted lamps are required, and is located on the travel portion of the roadway, suitable flares, reflectors or lamps shall be placed to give adequate warning.

Disabled vehicle

(7) Every locomotive or motor vehicle used on surface at a mine or plant or underground at a mine shall be equipped with suitable brakes.

Brakes

(8) No locomotive or motor vehicle used on surface at a mine or plant or underground at a mine shall be operated unless the brakes, steering, audible signals, lights and rear-vision mirrors, where applicable, are in satisfactory condition.

Operating equipment to be in satisfactory condition

(9) Whenever the face of a main ramp or inclined tunnel in a mine exceeds a vertical depth of 300 feet without intermediate access to the ramp or tunnel from an operating shaft or winze, a suitable approved vehicle shall be provided to transport persons down and up the ramp or tunnel. 1970, c. 79, s. 2, *part*.

Transportation in ramps and tunnels

239.—(1) The control levers of storage battery and trolley locomotives used on surface at a mine or plant or underground in a mine shall be so arranged that the lever cannot accidentally be removed when the power is on.

Control levers

(2) No locomotive or motor vehicle used on surface at a mine or plant or underground in a mine shall be moved under its own power unless, where it is manually operated, the operator is in proper position at the controls or, where it is operated by a remote control or automated system, the system is approved by the chief engineer.

Control systems

(3) No locomotive or motor vehicle used on surface at a mine or plant or underground in a mine shall be left unattended unless the controls have been placed in the safe position for parking and the brakes have been set.

Unattended locomotives

(4) The operating platform of a locomotive used on surface at a mine or plant or underground in a mine shall be provided with a suitable seat and an adequate guard for the protection of the motorman. 1970, c. 79, s. 2, *part*.

Guard to protect motorman

Wheel
chocks

240.—(1) Motor vehicle haulage equipment used on surface at a mine or plant or underground in a mine shall carry, where practicable, wheel chocks to be used to block movement on slopes when the equipment is left unattended or is undergoing maintenance.

Safety
support for
truck boxes

(2) Every motor driven dump truck used on surface at a mine or plant or underground in a mine shall be equipped with a suitable safety support device which shall be used when repairs or maintenance are conducted under a raised box. 1970, c.79, s. 2, *part*.

Prohibitions
around
moving
machines

241.—(1) No operator shall leave the controls of his vehicle or machine unattended on surface at a mine or plant or underground in a mine while,

- (a) the bucket of a front-end loader, backhoe or other excavating machine;
- (b) the blade of a bulldozer; or
- (c) the load of a fork-lift truck, crane or other hoisting machine,

is in a raised position, except when it is suitably and safely supported.

Idem

(2) No person on surface at a mine or plant or underground in a mine shall be under any part of a motor vehicle or other equipment in which the lowering of that part may endanger the person unless that part is safely blocked in such a way as to prevent its lowering.

Idem

(3) No person on surface at a mine or plant or underground in a mine shall operate a crane or other hoisting machine in such a way that any part of its load may pass over a person other than the person receiving the load.

Idem

(4) A person on surface at a mine or plant or underground in a mine receiving a load shall so far as is practicable position himself so that the load does not pass over him.

Idem

(5) No person on surface at a mine or plant or underground in a mine shall operate a shovel, backhoe or similar excavating machine in such a way that it or any part of its load may pass over a person.

Idem

(6) No person on surface at a mine or plant or underground in a mine shall remain on or in a motor vehicle where he might be endangered during the loading or unloading of the vehicle.

Idem

(7) Where a motor vehicle on surface at a mine or plant or underground in a mine is being backed up in a location where a person may be endangered by the vehicle backing up or where the driver may be endangered, another person shall be stationed to direct the driver in backing up the vehicle. 1970, c. 79, s. 2, *part*.

242.—(1) Except for standard gauge track on surface, every switch in a track on surface at a mine or plant or underground in a mine shall have the frog and guard rail entrances provided with a guard block if its construction is not such that the hazard of a person's foot being caught in it is reduced to a minimum. Track condition

(2) Standard gauge track on surface at a mine or plant shall be installed and maintained as called for in the Uniform Code of Operating Rules prescribed by the Canadian Transport Commission. Standard gauge track

(3) All tracks in use on surface at a mine or plant or underground in a mine shall be maintained in good working condition. 1970, c. 79, s. 2, *part, amended*. Maintenance of tracks

HAULAGE — UNDERGROUND

243.—(1) In motorized haulage underground in a mine, a suitable tail-light shall be used in conjunction with made-up trains. Tail-light on trains

(2) Every self-propelled unit of trackless haulage equipment used underground in a mine shall be equipped with suitable lights or reflectors that show in the direction of travel the width of the vehicle. 1970, c. 79, s. 2, *part*. Lights to show width of vehicle

244.—(1) In motorized haulage in any level, drift or tunnel in or about a mine, no unauthorized person shall ride on any vehicle. Riding on vehicles prohibited

(2) Special trips for persons only shall be made on approved vehicles. Idem

(3) Every vehicle in which any person may ride shall be equipped with an emergency exit. 1970, c. 79, s. 2, *part*. Emergency exit

245.—(1) On every level of a mine on which motorized track haulage is employed, a clearance of at least eighteen inches shall be maintained between the sides of the haulageway and the cars or locomotive, or there shall be a clearance of twenty-four inches on one side, or safety stations shall be cut every 100 feet. Clearance and safety stations

(2) Such safety stations shall be plainly marked. Idem marking

(3) On every level of a mine on which motorized trackless haulage equipment is employed, a minimum total clearance of five feet shall be maintained between the sides of the haulageway or workings and the motorized equipment. Clearance for trackless haulage

(4) On every level of a mine regularly used both for pedestrian traffic and motorized trackless haulage where there is a total minimum clearance of less than seven feet between the sides of the haulageway and the vehicle, safety stations shall be cut at intervals not exceeding 100 feet and they shall be plainly marked. Idem, plus pedestrian travel

(5) All regular travelways in or about a mine shall be maintained clear of debris or obstructions that are likely to interfere with safe travel. 1970, c. 79, s. 2, *part*. Travelways clear of obstructions

HAULAGE — ON SURFACE

Guard-rails
at track
approaches

246.—(1) Guard-rails shall be placed at the approach to tracks on surface at a mine or plant where motorized haulage is used and where the view of the tracks is obstructed in one or both directions.

When im-
practical

(2) Where restricted clearances make the use of guard-rails impractical in the opinion of the district mining engineer, he may permit such guard-rails to be omitted but shall require that there be installed at the track approaches a suitable type or warning signal that will automatically give adequate, audible and visible warning at all times of the approach of the conveyance, or that a switchman shall walk ahead of the leading conveyance on the track when the conveyance is in dangerous proximity to the area requiring guarding and stand guard at such approaches. 1970, c. 79, s. 2, *part*.

Side clear-
ance,
haulage

247.—(1) Where motorized haulage is used on surface at a mine or plant and the clearance between the sides of conveyances on parallel tracks or between the sides of conveyances and the side of a building or other structure is less than eighteen inches, the location shall be plainly marked showing the danger.

Overhead
hazards

(2) At the approach to an overhead bridge, pipe line or similar structure on a standard-gauge railway track at a mine or plant where the clearance is less than six feet between the top of a railway car and the underside of the structure, a "low bridge" warning device shall be installed.

Overhead
hazards

(3) Where the operator may be exposed to overhead hazards at a mine or plant, a cab, screen or other adequate overhead protection shall be provided on,

- (a) a power-driven crane, shovel or similar machine;
- (b) a fork-lift truck; and
- (c) a front-end loader or other excavating machine. 1970, c. 79, s. 2, *part*.

Rear-vision
mirrors

248. Motor vehicles operating on surface at a mine shall be equipped, where practicable, with rear-vision mirrors. 1970, c. 79, s. 2, *part*.

PROTECTION FROM MACHINERY — MINES AND PLANTS

Interpre-
tation

249. In this Part,

- (a) "lifting device" means a device that is used to raise or lower any material or object, and includes its rails and other supports but does not include a device to which the provisions of this Part governing elevators or construction hoists apply;
- (b) "prime mover" means an initial source of motive power;

- (c) "transmission machinery" means any object by which the motion of a prime mover is transmitted to a machine that is capable of utilizing such motion, and includes a shaft, pulley, belt, chain, gear, clutch or other device. 1970, c. 79, s. 2, *part*.

250.—(1) Clearances adequate for the safety of persons shall be maintained in a mine or plant between the moving part of any machine or any material carried by the moving part and any other machine or structure. Clearances

(2) Adequate lighting shall be provided for all persons who are required to work near or about machinery in a mine or plant. Lighting

(3) Every prime mover, machine, transmission machinery or device that is dangerous to the safety of any person in a mine or plant shall be safely fenced or guarded, Fences, guards

(a) unless its position, construction or attachment assures the same protection as if it were safely fenced or guarded; or

(b) unless it is provided with a safety device that automatically prevents a person operating it from coming into contact with any dangerous part.

(4) Every set-screw, bolt or key on any revolving shaft, spindle, wheel or pinion connected to or forming part of or appurtenant to any machine, transmission machinery or device in a mine or plant shall be so recessed, encased, located or otherwise effectively guarded as to prevent injury to any person. Idem

(5) No person shall, or shall be permitted to clean, oil, adjust, repair or perform maintenance work on any machine, transmission machinery or device in a mine or plant while it or any part of it that is likely to endanger the safety of any person is in motion, except when such work is not practicable while the machine, transmission machinery or device is stopped. Repairs

(6) No person shall work or be allowed to work where the starting of a machine, transmission machinery or device in a mine or plant is likely to endanger the safety of any person, due to electrical hazard or exposure to moving parts, Starting

(a) unless prior to doing repair or maintenance on electrical-ly driven machinery, the person has made arrangements to ensure that the disconnect switch or switches supplying power to the machinery are opened and tagged or locked in accordance with section 443; or

(b) unless, for other than electrically driven machinery, precautions have been taken to prevent such starting. 1970, c. 79, s. 2, *part*.

Grinding
wheels
to be
guarded

Idem

251.—(1) Every stationary power-driven grinding wheel in a mine or plant shall be provided with a suitable hooded guard.

(2) Such guard shall be adjusted close to the wheel and extended forward over the top of the wheel to a point at least 30 degrees beyond a vertical line drawn through the centre of the wheel. 1970, c. 79, s. 2, *part*.

Runways
to have
hand-
railing

252. Every runway or staging in a mine or plant that is more than five feet from the floor and used for oiling or any similar purpose shall be provided with a hand-railing. 1970, c. 79, s. 2, *part*.

Counter-
weights

253. Every counterweight in a mine or plant shall be situated or guarded so as to reduce to a minimum the hazard of injury to a person along its travel or should it become detached from its fastenings. 1970, c. 79, s. 2, *part*.

Wearing
loose
clothing

254. Persons engaged in dangerous proximity to moving machinery in a mine or plant shall not wear or be allowed to wear loose outer clothing. 1970, c. 79, s. 2, *part*.

Lifting
devices

255.—(1) The rated working load of every lifting device in a mine or plant shall be plainly marked on the device.

Idem

(2) No lifting device in a mine or plant shall be loaded beyond its rated working load, except for the purpose of a test.

Idem

(3) No cable, chain, rope, sling, ring, hook, shackle, swivel or other part of a lifting device in a mine or plant shall be used unless it is of good construction, sound material and adequate strength to safely support the maximum load to which it is likely to be subjected, and is properly maintained.

Idem

(4) Every lifting device in a mine or plant shall be thoroughly examined at least annually by an authorized person.

Idem

(5) All rails in a mine or plant on which a lifting device moves shall be of proper size and properly laid and maintained and have an even running surface.

Idem

(6) No newly-installed lifting device in a mine or plant shall be used until it has been thoroughly tested and examined by an authorized person. 1970, c. 79, s. 2, *part*.

WELDING AND BURNING — MINES AND PLANTS

Radiation
protection

256.—(1) All persons exposed to the hazard of radiation from welding or burning operations in a mine or plant shall use protective helmets, goggles, or other devices.

Ventilation
or respi-
ratory
protection
require-
ments

(2) When welding or burning operations in mine or plant emit harmful fumes, adequate ventilation shall be provided or respirators shall be worn by persons exposed to the fumes.

(3) Persons shall do no welding or burning in a mine or plant where other persons may be exposed to radiation from the operation, unless such other persons wear suitable eye protection or are protected by screens. Protection against electric welding arc

(4) Gauntlet gloves and arm protection shall be worn by persons when electric welding in a mine or plant. Hand and arm protection

(5) Suitable fire extinguishers shall be kept at hand during welding or burning operations in a mine or plant, or other fire fighting equipment shall be readily available. Fire fighting equipment

(6) Cylinders, piping and fittings of compressed and liquefied gas systems pertaining to welding and burning in a mine or plant shall be so located as to avoid physical damage to the cylinders, piping and fittings. Location of welding equipment

(7) Persons shall guard against sparks or flames from coming in contact with cylinders, regulators or hoses of compressed-gas systems pertaining to welding and burning in a mine or plant and all charged cylinders shall be protected from excessive heat. Flames

(8) Before using any gas-welding or burning equipment, persons shall ensure that all parts of the equipment are free from defects, leaks, oil or grease. Leaks

(9) Cylinder valves shall be closed when work is finished or cylinders are empty, and valve-protection covers shall be kept in position when the cylinder is not connected for use. Cylinder valves

(10) No welding, brazing, soldering or burning operation shall be conducted on any container that has been used to contain any explosive or flammable substance, unless all practicable steps have been taken to, Containers

- (a) remove the substance and any fume, gas, vapour or dust arising from it; or
- (b) render the substance and any fume, gas, vapour or dust arising from it non-explosive or non-flammable,

and if such container has been subjected to any such alteration or repair, it shall be ensured that no explosive or flammable substance enters the container until the container has cooled sufficiently to prevent any risk of igniting the substance. 1970, c. 79, s. 2, *part*.

TRAVELLING CRANES — MINES AND PLANTS

257.—(1) In this section and in section 507, “crane” means a crane that travels on fixed tracks and is operated from a cab mounted on the crane and which may be radio controlled. Interpretation

(2) No person under the age of eighteen years and no person who has not had adequate experience on a crane shall be authorized to operate a crane in a mine or plant. Qualifications of crane operators

- Idem (3) No person shall operate or be permitted to operate a crane at a mine or plant unless he has been examined by a legally qualified medical practitioner acceptable to the employer and the medical practitioner has issued to him, on the form prescribed, a crane operator's medical certificate to the effect that to the best of the practitioner's knowledge the person is not subject to any infirmity, mental or physical (particularly with regard to sight, hearing and heart) to such a degree as to interfere with the efficient discharge of his duties.
- Expiry of certificate (4) Every crane operator's medical certificate lapses and shall be deemed to have expired at the end of one year from its date.
- Filing of certificate (5) Every crane operator's medical certificate shall be kept on file by the employer and made available to an engineer at his request.
- Riding prohibited (6) No person, other than the operator, shall be permitted to ride on a crane or any part thereof in a mine or plant or on any material carried by the crane, except for inspection, supervision, maintenance or repair or the instruction of a new operator.
- Warning devices (7) Every crane in a mine or plant shall be equipped with a whistle, bell, gong or horn that shall be sounded at such times as are necessary to give warning of the approach of the crane to places where persons are working or are liable to pass.
- Idem (8) Every crane in a mine or plant shall be equipped with an emergency exit.
- Where crane endangers person (9) Where any person is on or near the wheel track of a crane in any place in a mine or plant where the safety of such person is likely to be endangered by the crane, the operator of the crane shall be warned of the presence of such person and the crane or any part thereof shall not be allowed to approach within ten feet of the place.
- Devices to prevent overwind (10) Every crane in a mine or plant shall be equipped with suitable devices to prevent overwinding.
- Daily examination of cranes (11) The manager of a mine or plant shall depute one or more qualified persons to examine daily such parts of any crane or apparatus pertaining thereto upon the proper working of which the safety of persons depends.
- Testing before use (12) All shafts, hooks and other structure parts affecting the safe operation of every crane shall be non-destructively tested before being put into service, and thereafter at such intervals as to ensure that they are in safe condition.
- Idem (13) Crane ropes shall be examined visually at least once in each day to detect the presence of kinks, broken wires or other visible damage.

(14) Crane ropes shall be thoroughly examined at least once in each week to ensure that they are in safe operating condition. Crane ropes

(15) If during such examinations there is discovered any weakness or defect whereby the safety of persons may be endangered, the crane shall not be used until the defect has been remedied or the rope removed from service. Where defect found

(16) Every crane rope, when newly installed, shall have a factor of safety of not less than 10 when carrying its maximum load and using the breaking strength of the rope as certified by the rope manufacturer. Safety factor

(17) No crane rope shall be used when the number of broken wires in any section of the rope equalling the length of one lay of the rope exceeds four. Where crane rope not to be used

(18) A record of all the examinations and tests and of other regular maintenance examinations and of all structural modifications of any crane in a mine or plant shall be kept signed by the person making the examinations, tests and modifications and such record shall be available to the district electrical-mechanical engineer at all times. 1970, c. 79, s. 2, *part*. Record

CONVEYOR BELTS — MINES AND PLANTS

258.—(1) No person shall ride on a conveyance or belt in a mine or plant unless approved by the chief engineer. Conveyors, belts

(2) The following apply to installations of conveyor belts in mines and plants: Idem

1. Where conveyerways are used as regular travelways, such travelways shall be adequately illuminated and suitable means shall be provided to protect persons from material that may fall from the belt.
2. All conveyerways shall be provided with a walkway, crossover or some approved method of access for maintenance purposes.
3. Walkways shall not be less than 20 inches in width and shall be equipped with guardrails on the open sides where necessary.
4. Any accessible section of an electrically driven belt conveyor shall be provided with pull-cords to stop the conveyor in an emergency and such pull-cords shall reach from the head pulley to the tail pulley and all controls operated by these cords shall be of the manual-reset type.
5. Where required, an approved warning device shall be provided which will warn persons that the belt is about to start.

6. All head, tail, drive and tension pulleys shall be guarded at the pinch points and the length of such guards shall be extended to at least three feet from the pinch point. 1970, c. 79, s. 2, *part*.

PROTECTION IN WORKING PLACES OF MINES

Overhead operations

259. No person shall work in a location in a mine where another person is working overhead unless such measures for protection are taken as the nature of the work requires. 1970, c. 79, s. 2, *part*.

Fencing of shafts and other openings

260. The top of every working shaft in a mine shall be securely fenced or protected by a gate or guard-rail, and every pit or opening in a mine dangerous by reason of its depth shall be securely fenced or otherwise protected. 1970, c. 79, s. 2, *part*.

Gate at shaft entrances

261.—(1) At all shaft and winze openings on the surface and on every level in a mine, unless securely closed off, the hoisting compartments shall be protected by a substantial gate, which shall be kept closed except when the hoisting conveyance is being loaded or unloaded at such level.

Idem

(2) The clearance beneath any such gate shall be kept to a minimum.

Hoisting compartment gates

(3) Where haulage tracks lead up to a hoisting compartment on surface or underground, the gate on such compartment shall be reinforced in such a manner that it is sufficiently strong to withstand any impact imparted thereto by collision therewith of any locomotive, train or car operated on such tracks.

Idem

(4) Hoisting compartment gates shall be sufficiently reinforced where there is a hazard of impact due to the approach of a motor vehicle. 1970, c. 79, s. 2, *part*.

Shaft and winze timbering

262.—(1) Every shaft and winze in a mine shall be securely cased, lined or timbered, and during sinking operations the casing, lining or timbering shall be maintained within a safe distance of the bottom.

Idem

(2) In no instance shall such distance exceed fifty feet.

Strength of guides, etc.

(3) The guides, guide attachments and shaft casing, lining or timbering shall be of sufficient strength and shall be suitably designed, installed and maintained so that the safety catches referred to in section 332 may grip the guides properly at any point in the shaft. 1970, c. 79, s. 2, *part*.

Protection at shaft stations

263. There shall be provided a safe passageway and standing room for a person outside the shaft at all workings opening into a shaft of a mine, and the manway shall in all cases be directly connected with such openings. 1970, c. 79, s. 2, *part*.

264.—(1) Except during sinking operations, if material is handled in a shaft or winze compartment of a mine, there shall be maintained around that compartment, except on the side on which material is to be loaded or unloaded, a substantial partition at the collar and at all levels. Lining compartments at levels

(2) Such partition shall extend above the collar and all levels a distance not less than the height of the hoisting conveyance plus six feet and it shall extend below the collar and all levels at least six feet and it shall conform to the size of the conveyance allowing for necessary clearances. 1970, c. 79, s. 2, *part.* Idem

265. The footway or ladderway in a shaft or winze of a mine shall be separated from the compartment or division of the shaft or winze in which material, conveyance or counterweight is hoisted by a suitable and tightly-closed partition in the location required by section 264, and similarly in the remaining shaft sections, or by metal of suitable weight and mesh. 1970, c. 79, s. 2, *part.* Partition between manway and hoisting compartments

266. Wherever a counterweight is used in a shaft or winze of a mine, it shall be safely enclosed, unless it travels on guides. 1970, c. 79, s. 2, *part.* Counter-weight compartment

267. During shaft-sinking operations in a mine, no work shall be done in any place in a shaft or winze while persons are working in another part of the shaft or winze below such place, unless the persons working in the lower position are protected from the danger of falling material by a securely-constructed covering extending over a sufficient portion of the shaft to afford complete protection. 1970, c. 79, s. 2, *part.* Protection in sinking operations

268.—(1) Open hooks shall not be used in conjunction with the suspension of any shaft staging of a mine. Open hooks not to be used

(2) Open hooks shall not be used in connection with the suspension of any equipment or material in a shaft, winze, raise, or over a person in any location underground in a mine. 1970, c. 79, s. 2, *part.* Idem

269.—(1) No person shall do or be permitted to do any work or conduct any examination in a compartment of a shaft or winze of a mine or in that part of the headframe used in conjunction therewith while hoisting operations, other than those necessary for doing such work or conducting such examination, are in progress in such compartment. Protection on shaft inspection

(2) No person shall do or be permitted to do any work or conduct any examination in a shaft or winze of a mine or in that part of a headframe used in conjunction therewith unless he is adequately protected from accidental contact with any moving Idem

hoisting conveyance or counterweight or the danger of falling objects accidentally dislodged. 1970, c. 79, s. 2, *part*.

Timbering
mine
workings

270. Where in a mine the enclosing rocks are not safe, every adit, tunnel, stope or other working in which work is being carried on or through which persons pass shall be securely cased, lined or timbered, or otherwise made secure. 1970, c. 79, s. 2, *part*.

Steeplly-
inclined
raises

271.—(1) Except where approved raising equipment is used, all raises in a mine that are to be inclined at over 50 degrees and that are to be driven more than sixty feet slope distance shall be divided into at least two compartments, one of which shall be maintained as a ladderway equipped with suitable ladders.

Idem

(2) The timbering shall be maintained within a safe distance of the face and in no event shall the distance between the face and the top of the timbering exceed twenty-five feet. 1970, c. 79, s. 2, *part, amended*.

Precautions
as to broken
material

272.—(1) Whenever a chute in a mine is to be pulled and the safety of a person may be endangered by the settling of the broken material,

(a) the area affected by the pulling shall be guard-railed or marked by a sign or signs so that no person can inadvertently enter the area; or

(b) any person who is working in the affected area shall be notified.

Idem

(2) Proper precautions shall be taken during the pulling operation to ascertain whether or not the broken material is settling freely from the top.

Hang-ups

(3) When there is any indication of a hang-up, the location shall be adequately protected by suitable signs or barricades.

Exits from
platform

(4) There shall be provided two exits from each raised platform from which broken material is pulled. 1970, c. 79, s. 2, *part*.

Access to
stopes

273. Unless the entrance to a stope in a mine is capable of being used as such at all times, a second means of entrance shall be provided and maintained. 1970, c. 79, s. 2, *part*.

Guarding
mill holes,
manways,
etc.

274. The top of every mill hole, manway or other opening in a mine shall be kept covered or otherwise adequately protected. 1970, c. 79, s. 2, *part*.

Guarding
open
workings

275. Wherever persons are working in a mine below a level in a place whose top is open to the level in close proximity to a haulageway or travelway, some person shall be posted to effec-

tively guard the opening unless it is securely covered over or otherwise closed off from the haulageway or travelway. 1970, c. 79 s. 2, *part*.

276. The tops of all raises or other openings to a level in a mine shall be kept securely covered, fenced off or protected by suitable barricades to prevent inadvertent access thereto. 1970, c. 79, s. 2, *part*. Guarding
tops of
raises

277. There shall be provided and maintained in every mine an adequate supply of properly-dressed scaling bars and gads and other equipment necessary for scaling. 1970, c. 79, s. 2, *part*. Scaling bars
and gads

278.—(1) Where there is non-continuous shift operation in areas of a mine, the on-coming shift shall be warned of any abnormal condition affecting the safety of operations. Warning of
abnormal
conditions

(2) Such warning shall consist of a written record over the signature of a responsible person on the off-going shift and shall be read and countersigned by the corresponding responsible person on the on-coming shift before persons are permitted to resume operations in the areas indicated in such record. 1970, c. 79, s. 2, *part*. Idem

279. At every mine where persons are employed underground, a suitable system shall be established and maintained to check in all persons who have gone underground and to check out all persons who have returned to surface, and it is the duty of such persons to check in and to check out in accordance with such system. 1970, c. 79, s. 2, *part*. Check-in,
check-out
systems

280. Where repair work is in progress in a manway in a mine or conditions arise that may endanger travel through the manway, it shall be closed as a travelway and adequate signs designating its unfitness for travel purposes shall be posted at all entrances to it. 1970, c. 79, s. 2, *part*. Signs de-
signating
repair work

281.—(1) Diamond-drill holes shall be plotted on all working plans of levels of a mine. Diamond-
drill holes

(2) When an active mine heading is advancing toward a diamond-drill hole in a mine, the collar or the nearest points of intersection of the hole or both shall be securely closed off or guarded at all times that blasting is being done within fifteen feet of any possible intersection of the hole. Guarded
while
blasting
near

(3) The collar and any points of intersection of every diamond-drill hole in a mine shall be plainly marked at the time that drilling is discontinued or an intersection made. Marked

(4) Such markings shall consist of a single capital letter "H" in yellow paint measuring twelve inches by twelve inches, which Idem, with
letter "H"

shall be placed within four feet of the collar or inter-section. 1970, c. 79, s. 2, *part*.

Tailing
used for fill

282. Where tailings are used for filling worked-out areas underground in a mine, the moisture contained in the trailings and the liquid draining off therefrom shall not have a higher cyanide content than .005 per cent expressed as cyanide of potassium. 1970, c. 79, s. 2, *part*.

HANDLING WATER — MINES

Removal
of water
from mine
workings

283. Every working mine shall be provided with suitable and efficient machinery and appliances for keeping the mine free from water, the accumulation or flowing of which might endanger the lives of persons in the mine or in any adjoining mine. 1970, c. 79, s. 2, *part*.

Precautions
against flow
of water

284. Where there is or may be an accumulation of water on surface or in a mine, any working approaching the same shall have bore holes kept in advance and such additional precautionary measures shall be taken as are considered necessary to obviate the danger of a sudden breaking through of the water. 1970, c. 79, s. 2, *part*.

Protection
at sump

285. A suitable stopping shall be placed in every working shaft in a mine to prevent that part of the hoisting conveyance carrying persons from being inadvertently lowered into water in the sump of the shaft. 1970, c. 79, s. 2, *part*.

Interpre-
tation

286.—(1) In this section,

- (a) "bulkhead" means any structure built for the purpose of impounding water or confining air under pressure in a drift, crosscut or any other mine opening and constructed in such a manner as to completely close off such drift, crosscut or other mine opening;
- (b) "dam" means a structure built for the purpose of impounding water in a drift, crosscut or other mine opening and built in such a manner as to permit an unobstructed overflow of the water.

Location of
bulkheads
and dams

(2) The location of every underground bulkhead and dam within the meaning of this section shall be clearly shown on the mine plans.

Permission
for dams

(3) No dam behind which more than twenty-five tons of water may be impounded shall be constructed underground in a mine until application in writing is made to the district mining engineer and written permission is granted by the chief engineer and then only when constructed in accordance with plans and specifications that have been approved by the chief engineer.

(4) No bulkhead shall be constructed underground in a mine without the written permission of the chief engineer and then only when constructed in accordance with plans and specifications that have been approved by him.

Permission
necessary
for
bulkhead

(5) On the completion of the installation of a bulkhead in a mine, the manager shall immediately notify the chief engineer that it has been completed. 1970, c. 79, s. 2, *part*.

Completion
of bulkhead

CARE AND USE OF EXPLOSIVES AND BLASTING AGENTS

287. Every possible precaution shall be taken in the handling and transportation of explosives and blasting agents at a mine or plant. 1970, c. 79, s. 2, *part*.

Precautions
to be taken

288.—(1) No explosive shall be used at a mine or plant unless there is plainly printed or marked on every original package containing the explosive, the name and place of business of the manufacturer, the strength of the explosive and the date of its manufacture.

Marking of
explosives

(2) Only explosives in Fume Class I as established by the Explosives Division of the Department of Energy, Mines and Resources of Canada or explosives and blasting agents as permitted by the chief engineer shall be used underground in a mine.

Fume clas-
sification of
explosives

(3) The preparation of a blasting agent at a mine or plant, except when prepared by a properly-authorized manufacturer of explosives or blasting agents, shall be done only with the permission in writing of the chief engineer.

Preparation
of blasting
agents

(4) Every case of supposedly defective fuse, detonator or blasting cap or explosive shall be reported to the district mining engineer with the name and address of the manufacturer and accompanied, if available, by the packing slip from the original container of the fuses, detonators or blasting caps, or explosives, along with all pertinent information available. 1970, c. 79, s. 2, *part*.

Defective
explosives,
etc., to be
reported

289.—(1) Except as otherwise provided, all explosives, blasting agents, detonators and blasting caps shall be stored on surface at a mine or plant in special suitable buildings, such as magazines, thaw houses, detonator or blasting cap storage buildings, or cap and fuse houses.

Storage of
explosives
and blasting
agents

(2) Detonators, blasting caps or igniter cord shall not be stored in the same receptacle or storage building as other explosives or blasting agents.

Storage of
detonators,
etc.

(3) No such storage building shall be erected or maintained at a mine or plant without the written permission of the district mining engineer, nor until the site of the building and the style of structure have been approved by him.

Permission
necessary
before con-
struction

Permission to state quantity	(4) Such written permission shall state the maximum quantity and kind of detonators, explosives or blasting agents that may be stored in the building.
Permission to be posted	(5) The permission shall be posted up in the building.
Storage under authorized person	(6) Every such storage building shall be under the direction of the manager or a person authorized by him.
Storage near power prohibited	(7) Explosives or blasting agents shall not be stored within 300 feet of a mine or plant main substation.
Storage near overhead supply lines	(8) The minimum distance measured at ground level between an overhead supply line and explosives or blasting agents storages shall not be less than $1\frac{1}{2}$ times the length of one span between the supports of such line.
Location of storage buildings	(9) Where possible, every such storage building shall be located in accordance with the British Table of Distances in respect of its distance from the mine or plant or any other building or any public road or railway.
Idem	(10) Where conditions are such that it is impossible to locate any storage building in accordance with the British Table of Distances, the mine or plant manager and the district mining engineer shall jointly choose the most suitable location.
Storages for blasting agents	(11) Storages for blasting agents may contain three times the quantity of blasting agents as compared to explosives set by the British Table of Distances.
Where explosives and blasting agents stored together	(12) Where explosives and blasting agents are stored together, the lesser limit of storage applies.
Materials used in storage buildings	(13) Every such storage building shall be constructed of such materials as to ensure as far as possible against accident from any cause.
Requirements to be posted	(14) The requirements in reference to the care and use of explosives and blasting agents shall be kept posted up inside every such storage building.
Buildings locked, and signs	(15) Every such storage building shall be kept securely locked at all times that the attendant is not present and it shall be clearly indicated by one or more easily visible signs that explosives or blasting agents are stored therein.
Posting of signs	(16) Such sign or signs shall be posted beside the road approaches to the building at least eight feet above the ground and twenty-five feet distant from the entrance. 1970, c. 79, s. 2, <i>part</i> .
Storages to be clean, etc.	290. —(1) All explosive, blasting agent, detonator or fuse storages at or in a mine or plant shall be kept clean, dry and free from grit at all times.

(2) Floors and shelves of magazines and thaw houses shall be treated with a suitable neutralizing agent, whenever necessary, to remove any traces of explosive substances. 1970, c. 79, s. 2, *part*.

Floors
and shelves

291.—(1) When supplies of explosives or blasting agents are removed from a magazine, those that have been longest in the magazine, if they are not defective, shall be used first.

What
explosives
and blasting
agents
to be used
first

(2) Where explosives or blasting agents become defective, they shall be suitably and safely disposed of.

Defective
explosives
and blasting
agents

(3) An engineer may, if he considers it necessary to protect life or property, arrange for the disposal of defective or abandoned explosives or blasting agents, and the amount of costs so incurred is a debt due to the Crown from the owner or agent, recoverable in any court of competent jurisdiction. 1970, c. 79, s. 2, *part*.

Disposal of
defective
explosives
and blasting
agents

292. Only implements of wood or fibre shall be used in opening cases that contain explosives. 1970, c. 79, s. 2, *part*.

Opening
cases

293.—(1) Explosives or blasting agents, including caps, fuses and igniter cord, shall not be stored underground in a mine in excess of the necessary underground supply for forty-eight hours.

Storage of
explosives
and blasting
agents
under-
ground

(2) In no case shall an amount exceeding 300 pounds of explosives or 900 pounds of blasting agents be stored in any one place underground in a mine without the written permission of the district mining engineer.

Storage
capacity

(3) With the written permission of the district mining engineer and subject to such conditions as he may prescribe, other underground explosive storages in a mine may be established, but in no case shall more than 1,000 pounds of explosives or 3,000 pounds of blasting agents be stored in any one storage place.

Written
permission
for
increased
capacity

(4) Where explosives and blasting agents are stored together underground in a mine, the lesser limit of storage applies.

Idem

(5) Explosives and blasting agents stored underground in a mine shall be kept in suitable containers or storage places in suitable locations.

Suitable
storage

(6) Explosives or blasting agents shall not be stored underground in a mine in places where there is a possibility of a train or car colliding with the containers of the explosives or blasting agents.

Protection
from trains,
etc.

(7) Where explosives or blasting agents in excess of the quantity that may be stored in approved underground storages in a mine are required for such operations as longhole blasts, etc., only such quantities as can be loaded in a twenty-four hour period shall be kept in a storage place underground at any time for such blast.

Where
excess
quantities
required

Surplus
at shift end

(8) Any explosives or blasting agents not loaded at the end of a shift shall be stored in accordance with the requirements of this section or be adequately guarded. 1970, c. 79, s. 2, *part*.

Location
of under-
ground
storages for
explosives,
etc.

294.—(1) Explosives or blasting agents shall not be stored underground in a mine within,

(a) 200 feet of a shaft station; or

(b) the distance prescribed by subsection 4 of section 568.

Idem,
detonators,
etc.

(2) Detonators, blasting caps, capped fuses or igniter cord, while stored underground in a mine, shall be kept in separate, suitable, closed containers or storage places.

Idem

(3) Such containers and storage places shall not be located within twenty-five feet of any other explosives or blasting agents. 1970, c. 79, s. 2, *part*.

Open-flame
lamps on
surface

295.—(1) No flame-type light shall be taken within twenty-five feet of any building or place on the surface of a mine or plant in which explosives or blasting agents are stored.

Idem,
under-
ground

(2) No flame-type light shall be taken within ten feet of any place underground in a mine where explosives or blasting agents are stored unless a suitable, safe arrangement for the placing of such light is provided.

Smoking

(3) No person shall smoke in any place or building in a mine or plant where explosives or blasting agents are stored or while handling explosives or blasting agents. 1970, c. 79, s. 2, *part*.

Inspection
of storage
places

296.—(1) A properly authorized person or persons shall make a thorough weekly inspection of all explosives or blasting agents, explosives or blasting agents magazines, thaw houses, detonator or blasting cap storage buildings, cap and fuse houses, and all storage boxes or places in or about the mine or plant used for the purpose of storing explosives, blasting agents, detonators or blasting caps and shall make a report in writing to the manager stating that such inspection has been made and certifying as to the conditions found.

Unsuitable
conditions
to be
rectified

(2) The manager shall take immediate steps to correct any unsuitable conditions found and to properly dispose of any deteriorated explosives or blasting agents.

Careless
acts

(3) The manager shall make a prompt investigation when an act of careless placing or handling of explosives or blasting agents is discovered by or reported to him.

Report of
carelessness
to engineer

(4) Any employee who commits a careless act with an explosive or blasting agent or where explosives or blasting agents are stored, or who, having discovered such an act to have been committed, omits or neglects to report immediately such act to an

officer in charge of the mine or plant, is guilty of an offence against this Act, and the officer in charge of the mine or plant shall immediately report such offence to the district mining engineer or to the Crown attorney of the county or district in which the mine or plant is situate. 1970, c. 79, s. 2, *part*.

297.—(1) When a mine or plant is closed down, all explosives, blasting agents, fuses, detonators and blasting caps shall be disposed of and no explosive or blasting agent shall be stored at any such closed-down mine or plant without the written permission of the chief engineer. Disposal of explosives, etc.

(2) No person shall take away from a mine or plant any explosive, blasting agent, fuse, detonator or blasting cap without the written permission of the manager or of such person as is authorized by the manager to give such permission. 1970, c. 79, s. 2, *part*. Removal from mine, etc., of explosives, etc.

298.—(1) No building for thawing explosives shall be maintained in connection with a mine or plant without the written permission of the district mining engineer. Thaw houses

(2) The building shall be above ground, and the site of the building and the style of the structure and equipment shall be subject to the approval of an engineer. Approval of building

(3) The quantity of explosives kept in a thaw house at any time shall not exceed the requirements of the mine or plant for a period of twenty-four hours plus the amount that may be necessary to maintain that supply, but the district mining engineer may give permission in writing to store a quantity not in excess of the permitted capacity of the building if, in his opinion, the heating equipment is such that the temperature can be controlled within approved safe limits. Quantity stored

(4) A reliable recording thermometer shall be kept in the room in which explosives are thawed and the record thereof kept, but, where the amount of explosives in such thawing room does not exceed 200 pounds at any one time, the district mining engineer may give permission in writing to use a maximum and minimum registering thermometer on condition that a daily record of high and low temperatures be made and kept on file for at least one year. Thermometer in thaw house

(5) All such records shall be made available to the district mining engineer. 1970, c. 79, s. 2, *part*. Idem

299. No explosives shall be thawed near an open fire or steam boiler or by direct contact with steam or hot water in a mine or plant. 1970, c. 79, s. 2, *part*. Prohibition

Application
of section

300.—(1) This section applies only on mine or plant premises and only on surface.

Transporta-
tion of
explosives,
etc., on
surface by
motor
vehicles
Markings

(2) Every motor vehicle used for transporting explosives or blasting agents shall be maintained in sound mechanical condition.

(3) Every such motor vehicle shall be conspicuously marked by suitable signs or red flags easily visible from front and rear.

Metal parts
to be
covered

(4) The metal parts of every vehicle that may come in contact with containers of explosives or blasting agents shall be suitably covered with wood, tarpaulin or other suitable material.

No other
goods

(5) No other goods or materials shall be transported on any vehicle on which explosives or blasting agents are being transported.

Fire ex-
tinguisher

(6) Every motor vehicle transporting more than 150 pounds of explosives or blasting agents shall be equipped with a fire extinguisher in working order, of adequate size and capable of dealing with a gasoline or oil fire.

Load
limits

(7) No motor vehicle shall be loaded with more than 80 per cent of its carrying capacity when transporting explosives or more than 100 per cent of its carrying capacity when transporting blasting agents.

Load
to be
secured

(8) Explosives or blasting agents transported on a vehicle shall be secured or fastened so as to prevent any part of the load from becoming dislodged.

Detonators

(9) Detonators shall not be transported in the same vehicle as other explosives or blasting agents except in a suitable container in a separated compartment, and in such case the number shall not exceed 5,000 detonators.

Not to be
unattended

(10) A vehicle transporting explosives or blasting agents shall not be left unattended.

No surplus
crew

(11) Only those persons necessary for the handling of explosives or blasting agents shall travel on a vehicle that is transporting explosives or blasting agents.

No smoking

(12) There shall be no smoking by persons on a vehicle that is transporting explosives or blasting agents. 1970, c. 79, s. 2, *part*.

Transporta-
tion of
explosives,
etc., in shaft
conveyances

301.—(1) When the day's supply of explosives or blasting agents is being transported in a shaft conveyance in a mine, the person in charge of the operation shall give or cause to be given notice of the operation to the deckman and hoistman.

Authoriza-
tion to
handle

(2) No person shall,

(a) place in;

- (b) have while in; or
- (c) take out of,

a shaft conveyance of a mine any explosives or blasting agents except under the immediate supervision of a person authorized for the purpose by the responsible supervisor.

(3) No other material shall be transported with explosives or blasting agents in a shaft conveyance in a mine. 1970, c. 79, s. 2, *part.* No other material in conveyance

302.—(1) The transfer of explosives or blasting agents from the magazine or other surface storage place at a mine or plant shall be so arranged that no undue delay will occur between the time the explosives or blasting agents leave the surface storage place and the time they are properly stored in designated storage places in the mine or plant or distributed to points of use in the mine or plant. Transfer of explosives or blasting agents from storage places

(2) Explosives or blasting agents shall not be left at a level station or near the shaft collar or other entrance to a mine but shall be transferred from a designated storage place to other designated storage places or points of use without undue delay. 1970, c. 79, s. 2, *part.* Transfer without undue delay

303.—(1) Primers shall be made up as near to their point of use as is practicable in the interests of safety and then only in sufficient numbers for the immediate work in hand. Transportation of detonators

(2) Detonators, blasting caps, capped fuses, made-up primers, igniter cord or other explosives or blasting agents shall not be transported in a conveyance either on surface or underground at a mine or plant unless placed in separate, suitable, closed containers. Suitable containers

(3) A person may carry capped fuses with other explosives or blasting agents from the nearest storage place at a mine or plant to the point of use without placing them in a container if they are kept separate from other explosives and blasting agents. Kept separate from other explosives or blasting agents

(4) Made-up primers shall not be transported or carried at a mine or plant unless placed in separate, suitable, closed containers. 1970, c. 79, s. 2, *part.* Made-up primers

304.—(1) Where explosives or blasting agents are transported in mine workings by means of mechanical haulage, including trackless equipment, the speed of the vehicle shall not exceed 4 miles an hour and definite arrangements for the right of way of the vehicle shall be made before the vehicle is moved. Transportation of explosives, etc., underground, speed and right of way

(2) Where mechanical track haulage is used in a mine,
 (a) the locomotive shall be maintained on the forward end of the train transporting explosives or blasting agents By mechanical track haulage

unless some person walks in advance of the train to effectively guard it;

- (b) any car carrying explosives or blasting agents shall be separated from the locomotive by an empty car or spacer of equivalent length; and
- (c) in no case shall explosives or blasting agents be carried on the locomotive.

By trolley locomotive haulage

(3) Where a trolley locomotive is used in a mine, the car or cars transporting explosives or blasting agents shall be protected from trolley-wire contact and other existing hazards.

By trackless equipment

(4) Where trackless equipment is used for the transportation of explosives underground in a mine, the requirements of section 300, except subsection 3, apply.

Idem

(5) Where trackless equipment is used for the transportation of blasting agents in a mine, the requirements of section 300, except subsections 3 and 4, apply. 1970, c. 79, s. 2, *part*.

Blasting on contiguous claims

305. Where parties working contiguous or adjacent claims or mines disagree as to the time of setting off blasts, either party may appeal to the district mining engineer, who shall decide upon the time at which blasting operations thereon may be performed, and his decision is final and conclusive and shall be observed by them in future blasting operations. 1970, c. 79, s. 2, *part*.

Explosives not to be removed from original container
Blasting of roast heaps

306. No explosive shall be removed from its original paper container or cartridge in a mine or plant. 1970, c. 79, s. 2, *part*.

307. No explosive shall be used to blast or break up ore, salamander or other material in a mine or plant where by reason of its heated condition there is any danger or risk of premature explosion of the charge. 1970, c. 79, s. 2, *part*.

Size of drill holes

308. All drill holes in a mine or plant shall be of sufficient size to admit of the free insertion to the bottom of the hole of a cartridge of explosive. 1970, c. 79, s. 2, *part*.

No iron or steel tools

309. In charging holes for blasting in a mine or plant, no iron or steel tool or rod shall be used, and no iron or steel tool shall be used in any hole containing explosives. 1970, c. 79, s. 2, *part*.

Procedure before drilling

310.—(1) Before drilling is commenced in a working place in a mine the exposed face shall be washed with water and carefully examined for misfires and cut-off holes, giving special attention to old bottoms.

Bootleg holes

(2) No drilling shall be done in a mine within six inches of any hole that has been charged and blasted or any remnant of such hole.

(3) No drilling shall be done in a mine within five feet of any hole containing explosives or blasting agents. Holes containing explosives, etc.

(4) Drilling or undercutting and charging operations at a mine shall not be carried on simultaneously on the same face above or below each other or within twenty-five feet horizontal distance. 1970, c. 79, s. 2, *part*. Precautions when loading

311.—(1) Every blaster shall, before blasting, cause all entrances or approaches to the place where the blasting is to be done or where the safety of persons may be endangered by the blasting to be effectively guarded so as to prevent inadvertent access to such place while the charges are being blasted, including diamond drill holes as required by subsection 2 of section 281. Guarding entrances where blasting is done

(2) Subject to permission having been obtained, when required, from the appropriate authority, where it is necessary to stop traffic on a public road during a blasting operation, Guarding roads

- (a) an adequate number of flagmen equipped with suitable red flags shall be posted; and
- (b) signs, such as “DANGER”, “BLASTING” or “STOP FOR FLAGMAN”, shall be posted,

along the road at suitable locations to warn traffic approaching the flagman guarding the area.

(3) Posting of signs shall not be deemed to be adequate protection for blasting operations. Signs not adequate

(4) Every blaster shall, before blasting, give or cause to be given due warning in every direction by shouting “Fire” and shall satisfy himself that all persons have left the working place or the vicinity except those required to assist him in blasting and guarding. Due warning required

(5) Where the extent of the operation or the safeguarding of persons underground in a mine renders the warning under subsection 4 ineffective, such additional precautions to those so required shall be taken to ensure that all areas of the mine which may be affected by the blasting operation are vacated. Large blasting operations underground

(6) In open pits or quarries where, In pits and quarries

- (a) the extent of the operation or the exposure of persons renders the warning required under subsection 4 ineffective, due warning shall be given of a primary blast by siren or its equivalent in an approved manner in addition to guarding as required by subsection 1;
- (b) personnel are required near the blast area, the manager shall provide blasting shelters or some other form of protection for employees satisfactory to the engineer. 1970, c. 79, s. 2, *part*.

Breaking
through
to mine
workings

312. Where possible, no connection between mine workings shall be made until a thorough examination of the working towards which the active heading is advancing has been made and has shown that the work can be proceeded with in a safe manner, and such point of connection shall be guarded as an entry when blasting twice the length of the longest drill steel used or a minimum of fifteen feet of breaking through. 1970, c. 79, s. 2, *part*.

Minimum
length
of fuse

313.—(1) Except where fired electrically, no fuse shorter than three feet shall be used in any blasting operation in a mine or plant nor shall any fuse be lighted at a point closer than three feet from the capped end.

Detonator
required

(2) No drill hole in a mine shall be charged with explosives or blasting agents unless a properly prepared detonating agent is placed in the charge and it shall be fired in its proper sequence in one blasting operation.

Firing

(3) All drill holes in a mine that are charged with explosives or blasting agents in one loading operation shall be fired in one blasting operation.

Idem

(4) Any drill hole in a mine that has been charged with explosives or blasting agents or any explosive charge that has been set shall not be left unfired but shall be fired at the time for blasting required by the approved practice of the mine.

Safety fuses

(5) Where a safety fuse is used in a blasting operation in a mine,

(a) suitably capped fuses shall be supplied to the blasters in standard, uniform and safe lengths for the operation at hand; and

(b) the uncapped ends of all fuses for use in a mine shall be suitably identified.

Lighting
fuses

(6) Where more than one charge is to be fired, each fuse connected to a charge of explosives or blasting agents shall be lighted with a suitably-timed spitting device.

Number
of men

(7) Where more than one charge is to be fired, no blaster shall be permitted to conduct any blasting operation unless he is accompanied by one or more other persons.

Idem,
lights

(8) Every person engaged in a blasting operation shall carry a light unless the blasting operation is conducted on surface in daylight or under artificial light. 1970, c. 79, s. 2, *part*.

Protection
of entrance
to working
place

314.—(1) Where blasting is done in a raise or stope, proper precautions shall be taken to prevent the closing of the means of entrance to the working place or interference with the effective

circulation of air following the blast by the broken material produced by the blast.

(2) In the case of a single-compartment raise or box-hole where material from the blast may block the means of entrance, proper precautions shall be taken to ensure the adequate ventilation of the working place before a person enters it. 1970, c. 79, s. 2, *part.* Idem

315.—(1) Where safety fuses were used in connection with a blast and two or more shots were fired, no blaster or other person shall leave or be permitted to leave his place of refuge from the blast and return to the scene of the blast within the number of minutes that are equal to twice the number of feet in the longest fuse used in the blasting operation. Interval before return to scene of blast

(2) Such period of time shall be calculated from the time when the last shot was heard except where the requirements of subsection 5 apply. Idem

(3) Where the firing was done by means of electric delay-action detonators and any shot has been heard, no blaster or other person shall leave or be permitted to leave his place of refuge and return to the scene of any blast within ten minutes of the time at which the blasting circuit is closed. Firing done electrically

(4) Except when no shot was heard and a faulty circuit is indicated, the circuit may be repaired immediately after the blaster has assured himself that the blasting switch is locked in the open position and the lead wires are short-circuited. Idem

(5) Where a safety fuse was used and a supposed misfire or missed hole, including a reblasted misfire, occurs in a blasting operation, no blaster or other person shall leave or be permitted to leave his place of refuge and return to the scene of the blast within thirty minutes of the time of lighting of the fuse or fuses. Misfire or missed hole

(6) When a blaster fires any charges, he shall, where possible, count the number of shots. Missed holes, etc.

(7) If a misfire is suspected, he shall report it to his supervisor. Idem

(8) If a missed hole has not been fired at the end of a shift, that fact, together with the location of the hole, shall be reported by the supervisor to the supervisor in charge of the next relay of persons going into that working place before work is commenced by them. Idem

(9) Any charge of explosives that has missed fire shall not be withdrawn but shall be blasted at a proper time and without undue delay, except that where a suitable device is used by an authorized person, the charge of explosives may be washed from the hole. Idem

Idem (10) Any blasting agent that has missed fire may be washed out of the hole.

Idem (11) No development heading shall be abandoned or work therein discontinued until the material broken at the firing of the last round has been cleared from the face and the whole face of the heading examined for explosives or blasting agents in missed or cut-off holes. 1970, c. 79, s. 2, *part*.

Where electric blasting required

316.—(1) After the first ten feet of advance has been made in a shaft or winze and until such time as the permanent timbers and ladders have reached the level upon which blasting is being done, all blasting in the shaft, winze, station or other workings being driven therefrom shall be done by means of an electric current.

Blasting in raises

(2) In any raise, where free escape is not ensured at all times, all blasting shall be done by means of an electric current or by an approved means initiated from a safe location outside the raise. 1970, c. 79, s. 2, *part*.

Electric current to be disconnected after blasting

317. Where blasting is done by means of an electric current, a person shall not enter or allow other persons to enter the place where the charges have been fired until he has disconnected and short-circuited the firing cables or wires from the blasting machine or portable direct-current battery or has assured himself that the switch of the approved blasting switch is open, the firing cables or wires short-circuited and the blasting box locked. 1970, c. 79, s. 2, *part*.

Blasting by direct current or blasting machine

318.—(1) Where the source of current is a portable direct-current battery or a blasting machine, the firing cables or wires shall not be connected to the source of current until immediately before they are required for firing the charges and shall be disconnected immediately after the connection has been made and the machine operated for firing the charges.

Firing cables, how to be used

(2) The firing cables leading to the face shall be short-circuited while the leads from the blasting caps are being connected to each other and to the firing cables.

Idem

(3) The short-circuit shall not be removed until the blaster and other persons have retreated from the face and it shall be so located that a premature explosion would be harmless to the persons opening the short-circuit.

Idem

(4) The short-circuit shall be replaced immediately after the cables have been disconnected from the blasting machine or the circuit from the blasting switch has been opened.

Idem

(5) The firing cables or wires used for firing charges at one working place shall not be used for firing charges in another working place until all proper precautions have been taken to

ensure that such firing cables or wires have no connection with the leads from the first working place.

(6) When firing cables or wires are used in the vicinity of power and lighting cables, the blaster shall take proper precautions to prevent the firing cables or wires from coming in contact with the lighting or power cables. Idem

(7) Where electricity, other than from a portable, hand-operated device, is used for firing charges, a fixed device of a design certified by the district electrical-mechanical engineer as meeting the requirements of section 523 shall be used. Where electricity from supply line used

(8) One such device shall be maintained for each individual working place in which firing is done by means of electricity using circuits complying with the requirements of section 525. 1970, c. 79, s. 2, *part*. Idem

EXAMINATION OF MINE WORKINGS AND SHAFT INSPECTION

319.—(1) The manager of a mine or some authorized person or persons shall examine on each working shift all parts where drilling and blasting are being carried on, shall examine at least once a week the other parts in which operations are being carried on, such as shafts, winzes, levels, stopes, drifts, cross-cuts and raises, in order to ascertain that they are in a safe condition. Examination of mine workings

(2) The manager of a mine or some authorized person or persons shall inspect and scale or cause to be inspected and scaled by a qualified person the roofs, walls and faces of all stopes or other working places as often as the nature of the ground and of the work performed necessitates. 1970, c. 79, s. 2, *part*. Idem, scaling

320.—(1) The manager of a mine where a hoist is in use shall depute some competent person or persons whose duty it is to make an inspection of the shaft at least once each week, and in addition a thorough examination shall be made at least once each month of the guides, timber, walls and hoisting compartments generally of the shaft, and a record of such inspection and examination shall be made in the Shaft Inspection Record Book by the person making the examination. Shaft inspection

(2) Every such manager shall keep or cause to be kept at the mine a book for each shaft termed the Shaft Inspection Record Book in which shall be recorded a report of every such examination, as is referred to in this section, signed by the persons making the examination. Shaft Inspection Record Book

(3) Such entries of examinations shall be read and initialled every week by the person in charge of the maintenance of the shaft. Entries to be initialled

Dangerous
conditions
noted

(4) A notation shall be made of any dangerous condition reported and the action taken regarding it over the signature of the person in charge of the maintenance of the shaft.

Available
to engineer

(5) The Shaft Inspection Record Book shall be made available to an engineer at all times. 1970, c. 79, s. 2, *part*.

LADDERWAYS AND LADDERS

Ladderways
in shafts
and winzes

321.—(1) A suitable footway or ladderway shall be provided in every shaft and winze.

Not in
vertical
position

(2) In shafts and winzes, no ladder, except an auxiliary ladder used in sinking operations, shall be installed in a vertical position.

Sinking
operations

(3) During sinking operations, if a ladder is not maintained to the bottom, an auxiliary ladder that will reach from the permanent ladders to the bottom shall be provided in such convenient position that it may be promptly lowered to any point at which a person is working.

Headframes

(4) Wherever, about shafts and winzes and headframes used in conjunction therewith, it is necessary for persons to examine or inspect appliances installed therein, suitable ladderways or stairways and platforms shall be maintained to permit such work to be carried out in a safe manner. 1970, c. 79, s. 2, *part*.

Partition
between
manway
and hoisting
compart-
ments

322. The footway or ladderway in a shaft or winze shall be separated from the compartment or division of the shaft or winze in which material, conveyance or counterweight is hoisted by a suitable and tightly-closed partition in the location required by section 264, and similarly in the remaining shaft sections, or by metal of suitable weight and mesh. 1970, c. 79, s. 2, *part*.

Ladderway
in shaft,
over
70 degrees

323.—(1) In a shaft or winze inclined at over 70 degrees from the horizontal or in a headframe used in conjunction with the shaft or winze, substantial platforms shall be built at intervals not exceeding twenty-one feet in the ladderway and shall be covered, except for an opening large enough to permit the passage of a person's body, and the ladders shall be so placed as to cover this opening in the platform.

Idem,
under
70 degrees

(2) In a shaft or winze inclined at less than 70 degrees from the horizontal or in a headframe used in conjunction with the shaft or winze, the ladders may be continuous, but substantial platforms shall be built at intervals not exceeding twenty-one feet in the ladderway and shall be covered, except for an opening large enough to permit the passage of a person's body. 1970, c. 79, s. 2, *part*.

When
stairway
permissible

324.—(1) Stairways may be used in a shaft or winze inclined at less than 50 degrees from the horizontal.

(2) All stairways in shafts and winzes shall be equipped with a Hand-rail suitably placed hand-rail. 1970, c. 79, s. 2, *part*.

325.—(1) All ladderways in raises, stopes and other manways shall be installed and maintained in a safe condition to reduce to a minimum the hazard of a person falling therefrom. Ladderways, other mine workings

(2) In manways inclined at 70 degrees or more, landing platforms shall be installed at intervals not exceeding twenty-one feet in the ladderway and the ladders shall be off-set at the platforms. Landing platforms

(3) In manways inclined at less than 70 degrees and more than 50 degrees, landing platforms shall be installed at intervals not exceeding twenty-one feet in the ladderway and the ladders may be continuous. Idem

(4) In manways inclined at 50 degrees or less, the ladders may be continuous and no platforms are required except at points of off-set. 1970, c. 79, s. 2, *part*. Idem

326. Wire rope or strands of wire rope shall not be used or be allowed to be used for climbing purposes if they are frayed or have projecting broken wires. 1970, c. 79, s. 2, *part*. Wire rope ladders

327.—(1) Every ladder shall project at least three feet above its platform, except where strong hand-rails are provided. Hand-rails for ladders

(2) Every ladder shall be of strong construction, shall be securely placed and shall be maintained in a safe condition. Ladders

(3) The distance between the centres of rungs of ladders shall be not more than twelve inches and not less than ten inches, and the spacing of rungs shall not vary more than one-half inch in any ladderway. Distance between rungs

(4) In order to give a proper foothold, the rungs of ladders shall in no case be closer than four inches from the wall of a shaft, winze or raise or any timber underneath the ladder. 1970, c. 79, s. 2, *part*. Distance from wall

328. No person shall be or be permitted to be in a ladderway while, Material handling in ladderways

(a) a bucket is being loaded or unloaded at the top; or

(b) a bucket or material is being hoisted or lowered. 1970, c. 79, s. 2, *part*.

HOISTS AND HOISTING

SINKING EQUIPMENT

329.—(1) After a depth of 300 feet below the sheave has been attained in the sinking of a vertical shaft or winze at a mine, a When crosshead required

suitable bucket and crosshead, as referred to in subsection 2 and in section 330, shall be used.

Suspension,
barrel-
shaped
bucket

(2) When a closed type of crosshead is not used, the bucket shall be barrel-shaped and shall be suspended by the upper rim. 1970, c. 79, s. 2, *part*.

Safety
appliance
on
crosshead

330.—(1) All sinking crossheads at a mine shall be provided with a safety appliance of a design approved by the district electrical-mechanical engineer for attaching the bucket to the crosshead, so constructed that the crosshead cannot stick in the hoisting compartment without also stopping the bucket.

Approval

(2) All crossheads shall be of a design approved by the district electrical-mechanical engineer. 1970, c. 79, s. 2, *part*.

SHAFT CONVEYANCES, CONSTRUCTION AND OPERATION

Protection
of men
in shaft
conveyances

331. No cage or skip shall be used in a mine for the raising or lowering of persons unless it is constructed so as to prevent any part of the body of a person riding in it from accidentally coming into contact with the timbering or sides of the shaft or winze. 1970, c. 79, s. 2, *part*.

Construction
of
cages and
skips, etc.

332. All cages and skips used for lowering or raising persons in a mine shall comply with the following:

1. The hood shall be made of steel plate not less than three-sixteenths of an inch in thickness or of a material of equivalent strength.
2. The cage shall be provided with sheet-iron or steel side-casing not less than one-eighth of an inch in thickness or of a material of equivalent strength, and the casing shall extend to a height not less than five feet above the floor of the cage.
3. The cage shall be equipped with doors made of suitable material that extend to a height not less than five feet above the floor.
4. The doors shall be so arranged that it is impossible for the doors to open outward from the cage.
5. Doors shall be fitted with a suitable latch and shall have a minimum clearance at the bottom.
6.
 - i. The safety catches and mechanism shall be of sufficient strength to hold the shaft conveyance with its maximum load at any point in the shaft and shall be of a type the design of which has been approved by the chief engineer.
 - ii. Such safety catches and mechanism shall not be used until approved by the district electrical-

mechanical engineer and such approval shall be based upon test performance.

- iii. Such approval shall not be considered until the safety catches and mechanism are found to function satisfactorily under load conditions during such number of tests as are required by the chief engineer, each test to consist of suddenly releasing the shaft conveyance in a suitable manner under maximum loading conditions for persons so that the safety catches will have the opportunity to grip the guides when the conveyance is descending at maximum rated speed.
 - iv. A report of such tests shall be submitted to the chief engineer.
7. Before a shaft conveyance equipped with an approved type of safety catches and mechanism is first used for the purpose of lowering and raising persons, the safety catches and mechanism shall be found to function efficiently according to the requirements of the district electrical-mechanical engineer during a test under the same conditions as set out in paragraph 6, and a permit for the use of the conveyance for lowering and raising men shall be obtained from the district mining engineer.
 8. A notation of such test shall be entered in the Hoisting Machinery Record Book and two copies of the report shall be sent to the district electrical-mechanical engineer.
 9. A shaft conveyance previously permitted for use by the district mining engineer for the purpose of lowering or hoisting persons on which alterations or repairs to the safety catch mechanism necessary to rectify any distortion of the mechanism from its proven satisfactory position are made shall not be put to such use until the safety catch and mechanism have been found to function efficiently according to the requirements of the district electrical-mechanical engineer during a test made under the same conditions as set out in paragraph 6, and the district mining engineer has again issued permission for the use of the conveyance for such purpose.
 10. A notation of such test shall be entered in the Hoisting Machinery Record Book and two copies of the report shall be sent to the district electrical-mechanical engineer.
 11. A certificate of load capacity of the conveyance and attachments, which shall include the weight of the tail rope, if any, or other suspended load, shall be obtained

from the manufacturer and made available to the district electrical-mechanical engineer.

12. Devices for attaching the conveyance to the rope shall have a factor of safety of not less than 10.
13. When newly installed, each device for attaching the rope or ropes to the conveyance shall have a factor of safety of not less than 10.
14. When newly installed, or rebuilt, all bails, frame members and other parts affecting the safe operation of the conveyance shall have a factor of safety of not less than 10.
15. The bails and suspension gear of all shaft conveyances shall be cleaned and thoroughly inspected at least once in every twelve months and a record of such inspection shall be made in the Hoisting Machinery Record Book. 1970, c. 79, s. 2, *part*.

Hoisting
without
safety
catches

333. The chief engineer may give permission in writing for hoisting men without safety catches if he is satisfied that the equipment and conditions are such that maximum safety is provided. 1970, c. 79, s. 2, *part*.

Operating
chairs by
lever

334. The cage shall not have chairs attached to it that are operated by a lever or a chain through or from the floor of the cage. 1970, c. 79, s. 2, *part*.

Automatic
operation
of chairs

335. When chairs are used for the purpose of landing a shaft conveyance at any point in a shaft or winze, other than at the lowest point of travel for a skip, they shall be so arranged that they automatically fall clear and remain clear of the hoisting compartment when the cage or other conveyance is lifted off. 1970, c. 79, s. 2, *part*.

Bails,
safety
latches, etc.

336. The bucket and any device such as the bail, safety latch or other attachment to the bucket shall be of a design approved by the district electrical-mechanical engineer. 1970, c. 79, s. 2, *part*.

HOIST BRAKES

Brakes
required

337.—(1) Every device used for lowering into or hoisting from mine workings shall be equipped with a brake or brakes that may be applied directly to each drum so as to safely stop and hold the drum when carrying its maximum load.

Arranged
to test
separately

(2) The brakes shall be so arranged that they can be tested separately and, whether the hoist is at work or at rest, can be easily and safely manipulated by the hoistman when at the levers controlling the hoist.

(3) No hoist used for lowering or raising persons or for shaft sinking shall be equipped with a brake or brakes operated by means of the hoistman's foot, unless such brake is an auxiliary electrical device. Not operated by foot

(4) The adjustments of the brake or brakes and brake mechanism shall be maintained in such condition that the brake lever or any other part of the brake mechanism will not come to the limit of travel before the normal power of the brake or brakes is applied. Adjustments to be maintained

(5) All brake engines shall be so equipped that, in the event of inadvertent or accidental loss of pressure in the brake system, the brakes can be applied. Loss of brake pressure

(6) The brakes for friction hoists shall be designed, adjusted and maintained to safely stop and hold the conveyance under all conditions of loading, direction of travel and speed. Brake for friction hoists

(7) At all times that persons are in or on a shaft conveyance, the hoist shall be equipped with more than one brake, each capable of safely stopping and holding the drum or drums in use. Brakes

(8) In shaft inspection, maintenance or sinking operations, persons may be in or on a shaft conveyance attached to the fixed or clutched-in drum when changing balance. Clutched-in drum

(9) At least one of the brakes required shall be arranged for automatic application upon operation of any of the safety devices for brake application. Automatic operation

(10) In a brake system where weights are used to furnish auxiliary pressure on loss of air, the weights shall be tested at least once every twenty-four hours to ensure their freedom of movement. Freedom of falling weights

(11) In the case of single drum air or steam driven hoists, automatic valves to control engine compression, arranged for operation by the safety devices, may serve as a brake. Single drum air or steam

(12) The arrangements mentioned in subsection 11 are subject to the approval of the district electrical-mechanical engineer. 1970, c. 79, s. 2, *part*. Idem

HOIST CLUTCHES

338. The device for operating the clutch of the drum shall be provided with adequate means to prevent the inadvertent withdrawal or insertion of the clutch. 1970, c. 79, s. 2, *part*. Clutch-locking arrangement

339. The brake and clutch operating gear shall be so installed that it will not be possible to unclutch a drum unless the brake or brakes on the drum are applied, nor shall it be possible to release the brake or brakes until the clutch of the drum is engaged. 1970, c. 79, s. 2, *part*. Interlocking brake and clutch

HOIST DRUMS

Securing of
drum parts

340. Such bolts and other fittings of the drums, brakes and clutches as might be a danger in the event of their becoming loosened shall be rendered secure by means of suitable locking devices other than spring lockwashers. 1970, c. 79, s. 2, *part*.

Slipping
of rope
on drum

341. On the drum of every hoist used for lowering or raising persons, there shall be flanges and also, if the drum is conical, such other appliances as are sufficient to prevent the rope or cable from slipping off. 1970, c. 79, s. 2, *part*.

Suitability
of hoist
drum for
rope

342.—(1) In all hoist installations, the dimensions of the drum or drums shall be suitable for the kind, diameter and length of the rope in service.

Bending
stresses
in rope

(2) The diameters of the hoist drums shall be large enough to prevent the occurrence of unduly large bending stresses in the rope.

Rope risers

(3) Where multiple-layer winding is used, proper arrangements shall be made and maintained to permit the rope to rise evenly from one layer to another and to wind properly without cutting down through any lower layer. 1970, c. 79, s. 2, *part*.

Drum hoist
installations

343.—(1) On and after the 15th day of June, 1948, in all installations of newly-acquired drum hoists and modifications of existing hoists designed to increase the load ratings of the hoist,

- (a) all hoist drums over sixty inches in diameter shall have grooving properly machined to fit the rope used, except that, in the case of shaft sinking, preliminary development operations and operations of a temporary nature, hoists with plain drums may be used;
- (b) the drums shall have sufficient rope-carrying capacity to permit hoisting from the lowest regular hoisting point to the highest point of travel in the shaft without the necessity of winding more than three layers of rope on the drum;
- (c) the diameter of a hoist drum shall be not less than 80 times the diameter of the hoisting rope in use when the diameter of the rope is greater than one inch and shall be not less than 60 times the diameter of the rope in use when the diameter of the rope is not greater than one inch, except that, in the case of shaft-sinking and preliminary development operations,
 - (i) a hoist may be used having a drum whose diameter is not less than 60 times the diameter of the hoisting rope in use when the diameter of the rope is greater than one inch, and
 - (ii) a hoist may be used having a drum whose diameter

is not less than 48 times the diameter of the hoisting rope in use when the diameter of the rope is not greater than one inch; and

- (d) the hoist and the head sheaves shall be so located in relation to one another as to permit the proper winding of the rope on the hoist drum.

(2) In any change of location of a hoist the requirements of clause *b* of subsection 1 apply. Change of location

(3) In friction hoist installations, Friction hoist installations

- (a) the drum diameter of every friction hoist installed on or after the 1st day of January, 1971 shall be not less than 100 times the diameter of the rope in use;

- (b) the hoist drive, control and brakes shall be so designed and maintained that slippage of the rope on the drum will not occur under normal operating conditions; and

- (c) the rope treads shall be inspected regularly and maintained in good condition;

- (d) in a friction hoist installation, tapered guides or other approved devices shall be installed above and below the limits of regular travel of the conveyance and arranged so as to brake and stop an overwound or underwound conveyance in the event of failure of other devices. Tapered guides
1970, c. 79, s. 2, *part*, amended.

SHEAVES

344.—(1) Head and deflection sheaves shall be machined and maintained to fit the rope properly. Head and deflection sheaves

(2) The diameter of a head sheave shall be determined by clause *c* of subsection 1 of section 343 as required for a hoist drum. Diameter of head sheaves

(3) The diameter of a deflection sheave shall be determined by, Diameter of deflection sheaves

- (a) in the case of a drum hoist system, clause *c* of subsection 1 of section 343; and

- (b) in the case of a friction hoist system, clause *a* of subsection 3 of section 343. 1970, c. 79, s. 2, *part*.

UTILITY HOISTS

345. Utility hoists, including tugger hoists, ropes and other equipment used in connection with the installation, shall be maintained in a safe working condition. 1970, c. 79, s. 2, *part*. Care of utility hoists

INDICATORS

346.—(1) Every hoist shall, in addition to any marks on the rope or drum, be provided with a reliable depth indicator that will clearly and accurately show to the operator, Indicator required

- (a) the position of the bucket, cage or skip;
- (b) at what position in the shaft a change of gradient necessitates a reduction in speed;
- (c) the overwind or underwind position of the shaft conveyance or counter-balance; and
- (d) the position above or below the limits as in clause c beyond which the conveyance is not to move.

Operation
of indicator

(2) Hoist depth indicators shall be driven by a reliable means.

Means
to adjust
indicator
on friction
hoist

(3) Means shall be provided on a friction hoist to adjust the depth indicators and protective devices on the hoist to the position of the conveyance in the shaft. 1970, c. 79, s. 2, *part*.

OVERWINDING, ETC.—AIR HOISTS AND STEAM HOISTS

Overwind
and under-
wind
protection

347. Air hoists and steam hoists shall be provided with suitable overwind, underwind and emergency protection for the hoisting conveyance, except that, in shaft-sinking, the underwind protection is not required. 1970, c. 79, s. 2, *part*.

Gauge
required

348. At all air hoists and steam hoists, there shall be installed within plain view of the operator a gauge to indicate the air or steam pressure, as the case may be. 1970, c. 79, s. 2, *part*.

SPECIFICATIONS AND SPECIAL TESTING

Specifica-
tions
required

349.—(1) The specifications of hoists and equipment and the general arrangement of the headframe in new installations and in shaft deepening projects shall be approved by the chief engineer.

Commis-
sioning tests

(2) Before a new hoisting installation is put in service, tests shall be conducted to prove its compliance with this Act.

Record kept
available

(3) A record of such tests and the results obtained shall be kept on file and made available to the district electrical-mechanical engineer.

Special
testing by
the district
electrical-
mechanical
engineer

(4) If the district electrical-mechanical engineer deems it necessary, he may, after consultation with the manager, conduct or require to be conducted specific tests of the efficiency of all brakes, clutches, overwind devices or other hoist controls. 1970, c. 79, s. 2, *part*.

New
equipment

350.—(1) All shafts, drums, mechanical linkage for controls, brake rods and other vital parts of a mine hoist which could affect the safety of the equipment shall be non-destructively tested before the hoist is placed in service.

Equipment
in service

(2) Hoist and sheave wheel shafting, hoist brake and mechanical linkage for controls, conveyance drawbars, pins and structural members and other hoisting equipment affecting the safety of the

installation shall be non-destructively tested at regular intervals or as required by the district electrical-mechanical engineer.

(3) Dates of the non-destructive testing shall be recorded in the Hoisting Machinery Record Book and the results shall be reported to the district electrical-mechanical engineer. Reports of tests

(4) The non-destructive testing shall be carried out by methods acceptable to the chief engineer. 1970, c. 79, s. 2, *part*. Approved methods

EXAMINATION

351. The manager of a mine where a hoist is in use shall depute some competent person or persons whose duty it is to examine at least once in each week, Examination of hoisting equipment

- (a) deflection, head and idler sheave wheels;
- (b) attachments of the hoisting ropes to the drums and to the counterweights, buckets, cages or skips;
- (c) brakes;
- (d) interlocks;
- (e) depth indicators;
- (f) buckets;
- (g) counterweights;
- (h) cages;
- (i) skips;
- (j) external parts of the hoist;
- (k) mechanical hoisting signalling equipment, if any;
- (l) shaft dumping and loading arrangements;
- (m) sinking doors and blasting sets, and any attachments thereto;
- (n) attachments to any cage, skip or bucket for any under-slung regularly-used equipment; and
- (o) guide or rubbing rope tensioning devices and attachments,

and to record the report of such examination in a book called the Hoisting Machinery Record Book. 1970, c. 79, s. 2, *part*.

HOISTING MACHINERY RECORD BOOK

352.—(1) The manager shall keep or cause to be kept at the mine the Hoisting Machinery Record Book referred to in section 351, in which shall be entered a report of every examination or report referred to in sections 332 and 351, subsection 2 of section 363, subsection 3 of section 367 and sections 368 and 369, and a notation of any failure of, accident to, correction or repairs to the hoist, the ropes, the shaft conveyance or any other part of the Entering of reports

hoisting, dumping or loading equipment, signed by the person making the examination or report.

Entries
to be
signed

(2) Such entries shall be read and signed each day, week or month, as required by this Act, by the person in charge of such equipment or accessories thereto.

What
to be
entered

(3) A notation shall be made in the Hoisting Machinery Record Book of the action taken regarding the report of any failure of, accident to, corrections or repairs to the hoist, the ropes, the shaft conveyance or any other part of the hoisting, dumping or loading equipment, over the signature of the person in charge of such equipment or accessories thereto.

Books
to be
available

(4) The Hoisting Machinery Record Book shall be made available to the engineer at all times. 1970, c. 79, s. 2, *part*.

HOISTING ROPES

Rope
connection

353.—(1) The connecting device between the hoisting rope and the bucket, cage, skip, counterweight or other device shall be of such nature that the risk of accidental disconnection is reduced to a minimum.

To be
approved

(2) Such connecting device shall be of a design approved by the chief engineer.

No open
hooks

(3) No open-hook device shall be used for such purpose.

Fastened
to spider
on a drum
hoist

(4) The drum end of the rope shall be fastened to the spider of the drum or around the drum shaft in some suitable manner.

Counter-
weight

(5) The rope from the counterweight shall be attached to the drum of the hoist and not to the shaft conveyance in drum hoist installations. 1970, c. 79, s. 2, *part*.

Splicing
prohibited

354. In no case shall a rope that has been spliced be used for hoisting purposes. 1970, c. 79, s. 2, *part*.

Length
of rope
required on
drum hoist

355.—(1) No drum hoist shall be operated with less than three turns of rope on the drum when the bucket, cage or skip is at the lowest point in the shaft from which hoisting is effected.

Three
layers only
on drum

(2) No drum hoist shall be operated with more than three complete layers of rope on the drum when the conveyance is at the highest point of travel in the shaft. 1970, c. 79, s. 2, *part*.

Test
certificate

356.—(1) No hoisting rope, tail rope, guide rope, or rubbing rope shall be used that has not been tested by the Ontario Government Cable Testing Laboratory and for which a certificate of the test is not in the possession of the user.

Number
of test
specimens
required

(2) In friction hoist installations, where multiple ropes are used and when manufactured have been laid up continuously, a

specimen shall be submitted for test, cut from the portion between each pair of ropes,

- (a) in the case of four ropes, two specimens shall be required;
- (b) in the case of three ropes, two specimens shall be required;
- (c) in guide and rubbing rope installations and where these ropes have been laid up continuously, a specimen shall be submitted for test, cut from the portion between each pair of ropes.

(3) No hoisting rope, tail rope, guide rope or rubbing rope shall be used that is not accompanied by a certificate from the manufacturer giving the following information: Manufacturer's certificate

- 1. Name and address of manufacturer.
- 2. Manufacturer's rope number.
- 3. Date of manufacture.
- 4. Diameter of rope in inches.
- 5. Weight per foot in pounds.
- 6. Rope construction.
- 7. Class of core.
- 8. Trade name of interior rope lubricant.
- 9. Number of wires in strand.
- 10. Grade of steel.
- 11. Diameter of wires in decimals of an inch.
- 12. Breaking stress of steel of which the wire is made in pounds per square inch.
- 13. Standard torsion test of wires.
- 14. Actual breaking load of rope, as provided by the certificate referred to in subsection 1.
- 15. Length of rope.

(4) When a rope is put into service in a shaft compartment or hoisting way, the data mentioned in subsection 3 shall be entered in a book called the Rope Record Book, together with the following information: Rope data to be entered in Rope Record Book

- 1. Name of person from whom purchased.
- 2. Date of purchase.
- 3. Date put on in present location.

4. Identification number of rope.
5. Name of shaft or winze and compartment in which rope is used.
6. Weight of shaft conveyance.
7. Weight of material carried, or weight or tension applied to guide or rubbing rope.
8. Maximum length of rope in service below sheave or total length of guide or rubbing rope.
9. Maximum weight of rope in service below sheave or total weight of guide or rubbing rope.
10. Static factors of safety at conveyance suspension and at head sheave with rope fully let out, or at guide or rubbing rope suspension point.
11. Date put on and removed from previous locations, if any.

Information
to be sent
to chief
engineer

(5) A copy of such entries shall be forwarded to the chief engineer at the time the rope is put on in any location.

Rope
Record
Book

(6) The manager shall keep or cause to be kept at the mine a book called the Rope Record Book, in which shall be recorded, in addition to the information referred to in subsections 3 and 4, the following information:

1. A history of the rope, giving the date on which the rope was first put on.
2. Dates of shortening.
3. Dates and results of breaking and electromagnetic tests.
4. Date and reason for taking out of service, for each occasion the rope is put into and taken out of service.

Rope
Record
Book
open to
engineer

(7) The Rope Record Book shall be available to the district electrical-mechanical engineer.

Notification
of rope
discarded

(8) When a hoisting rope, tail rope, guide rope or rubbing rope is taken out of service from a shaft compartment, notice to that effect shall be forwarded to the chief engineer, giving the date, the reasons for discarding or discontinuing the use of the rope, disposition of the rope, and such other information as he requires. 1970, c. 79, s. 2, *part, amended*.

Permission
required
to use
old rope

357.—(1) No hoisting rope, tail rope, guide rope or rubbing rope that has previously been in use in a place beyond the control of the manager shall be put in service anew, except with the permission in writing of the chief engineer.

(2) Request for permission to use such rope shall be accompanied by certification that the rope has been properly examined and that no apparent defects have been found. Request for permission

(3) The rope shall be electro-magnetically tested throughout its length and copies of the results, together with the interpretations, shall be sent to the chief engineer and to the district electrical-mechanical engineer within fourteen days after the test was made. 1970, c. 79, s. 2, *part, amended*. Electro-magnetic test

358. No hoisting rope, tail rope, guide rope or rubbing rope that has been removed from service shall be put in service anew for the purpose of lowering or raising persons, unless proper measures have been taken for the maintenance of the rope and the manager is satisfied that the rope is in safe working condition. 1970, c. 79, s. 2, *part, amended*. Precautions, used ropes

359. When a shaft compartment has been abandoned for hoisting purposes, the hoisting rope shall be removed immediately from the shaft. 1970, c. 79, s. 2, *part*. Rope removal

360. No hoisting rope shall be reversed until approval in writing has been received from the chief engineer. 1970, c. 79, s. 2, *part*. Rope not to be reversed

361.—(1) For the purpose of this section, the factor of safety of the hoisting rope, tail rope, guide rope or rubbing rope in a shaft or winze of a mine means the number of times the breaking strength of the rope is greater than the total weight supported by the rope at a definite place in the rope. Safety factor of ropes, interpretation

(2) The breaking strength of the rope means the breaking strength of the rope as shown in the test certificate issued by the Ontario Government Cable Testing Laboratory before the rope is installed, as required by subsection 1 of section 356. Breaking strength of ropes, interpretation

(3) Every hoisting rope, when newly installed on a drum hoist, shall have a factor of safety of not less than 8.5 at the end of the rope where it is attached to the conveyance and where the total weight consists of the combined weight of the conveyance and the maximum load to be carried. Safety factor of drum hoist ropes

(4) In addition, the hoisting rope, when newly installed, shall have a factor of safety of not less than 5 at the point where the rope leaves the head sheave and, the rope being fully let out, the total weight consists of the combined weight of the conveyance plus the maximum load to be carried plus the weight of that part of the rope that extends from the head sheave to the conveyance. Idem

(5) The factor of safety of the hoisting ropes for a given friction hoist installation is the lowest actual breaking strength, as determined by the Ontario Government Cable Testing Laboratory Safety factor for friction hoist ropes

ry, for the ropes, times the number of ropes, divided by the sum weight of the conveyance and attachments, the maximum conveyance load carried and the maximum weight of rope suspended in one compartment of the shaft.

Idem

(6) When the hoisting rope is installed on a friction hoist, the factor of safety shall be not less than that determined from the following formula: $F. \text{ of } S. = 8.0 - .0005 d$, where d is the maximum length of rope suspended below the head sheave in feet.

Idem

(7) For friction hoists, the factor of safety of the hoisting ropes shall be not less than 5.5 for any depth of shaft when the ropes are installed.

Safety
factor of
tail ropes

(8) The factor of safety of tail ropes shall be not less than 7 when installed.

Safety
factor of
guide and
rubbing
ropes

(9) The factor of safety of guide ropes and rubbing ropes shall be not less than 5 when installed. 1970, c. 79, s. 2, *part, amended*.

Rope
discard
criteria

362.—(1) No hoisting rope shall be used in a shaft or winze of a mine where in any part of the rope,

- (a) the existing strength has decreased to less than 90 per cent of the original strength of the rope;
- (b) the extension of a test piece has decreased to less than 60 per cent of its original extension when tested to destruction;
- (c) the number of broken wires in any section of the rope equalling the length of one lay of the rope exceeds six;
- (d) marked corrosion occurs;
- (e) the rate of stretch in a friction hoisting rope begins to show a rapid increase over the normal stretch noted during its service.

Idem

(2) No tail rope, guide or rubbing rope shall be used in a shaft where in any part of the rope,

- (a) the existing strength has decreased to less than 75 per cent of the original strength of the rope;
- (b) the extension of a test piece has decreased to less than 60 per cent of its original extension when tested to destruction;
- (c) the number of broken wires in any section of the rope equalling the length of one lay of the rope exceeds six;
- (d) marked corrosion occurs. 1970, c. 79, s. 2, *part*.

Rope
dressing

363.—(1) The rope dressing used on a drum hoisting rope shall be suited to the operating conditions of the rope, and the dressing shall be applied at least once in every month and as often as is necessary to maintain the coating on the rope in good condition.

(2) Every time the rope is dressed, a report of the treatment shall be recorded in the Hoisting Machinery Record Book and signed by the person who performed the work. 1970, c. 79, s. 2, *part.* Idem

364.—(1) After eighteen months of service, and thereafter at intervals of six months, the hoisting rope of a drum hoist shall have a portion not less than 8 feet in length cut off the lower end from a position above the clamps or other attachment. Testing of hoisting ropes

(2) The portion of rope so cut shall have the ends adequately fastened with binding wire before the cut is made to prevent the disturbance of the strands and it shall be sent to the Ontario Government Cable Testing Laboratory for a breaking test. Idem

(3) The certificate of the test shall be kept on file and a summary thereof recorded in the Rope Record Book. Recording of test

(4) All hoisting ropes on drum hoists and friction hoists shall be tested throughout their working length by an electro-magnetic testing device within the first six months of service, and thereafter at intervals of four months, or as required by the chief engineer. Electro-magnetic testing

(5) All tail ropes, guide and rubbing ropes shall be electro-magnetically tested at the end of twelve months service, and thereafter at such intervals as is necessary to ensure that the rope is in safe condition. Idem

(6) The electro-magnetic testing service and the agency or company supplying such service shall be approved by the chief engineer. Idem

(7) The dates and results of the electro-magnetic tests shall be entered in the Rope Record Book. Tests to be recorded

(8) Records of each electro-magnetic test, including graphs and interpretations, over the signature of the person making the interpretation, shall be sent to the chief engineer and to the district electrical-mechanical engineer within fourteen days after the test is made. 1970, c. 79, s. 2, *part.* Submission of results

365.—(1) The chief engineer may require that test specimens be cut from any rope discarded for use in mine hoisting at points specified by him and sent to the Ontario Government Cable Testing Laboratory for special testing and investigation if he is of the opinion that such testing and investigation are in the interests of better mine hoisting practice. Special testing of used hoisting ropes

(2) No charge shall be made for such special testing and investigation, but the mine is responsible for the cost of cutting, preparation and shipment of the test specimens. 1970, c. 79, s. 2, *part.* No charge for testing

CLEARANCE FOR TAIL ROPES

Tail ropes
to be clear

366. Water and spillage in a shaft sump in a mine shall be kept at such a level at all times that,

- (a) tail ropes have clear passage; and
- (b) guide and rubbing rope connections and tension devices are clear. 1970, c. 79, s. 2, *part*.

ROPE ATTACHMENTS

Examina-
tion of
attachments

367.—(1) Any rope in hoisting service when newly put on, and after any subsequent loosening of the connecting attachments between the rope and the bucket, cage, skip or counterweight and the connection between the rope and the hoist drum, shall have the attachments carefully examined by a qualified person or persons authorized by the manager and shall not be used for ordinary transport in a shaft or winze until two complete trips up and down the working parts of the shaft or winze have been made with the bucket, cage, skip or counterweight bearing its authorized load, and the connecting attachments have been re-examined.

Record
to be kept

(2) The hoistman shall make a record of such two complete trips in the Hoistman's Log Book.

Results
to be
recorded

(3) The results of the examination of the connecting attachments between the bucket, cage, skip or counterweight and hoist drum and the rope shall be recorded in the Hoisting Machinery Record Book and signed by the person making the examination. 1970, c. 79, s. 2, *part*.

Cleaning
and exam-
ination
of rope
connections

368.—(1) In drum hoist installations, after every six months of service, that portion of the rope at the conveyance end within the clamps shall be cut off and discarded.

Idem

(2) At such time, the connection between the rope and the drum shall be thoroughly cleaned and examined.

Idem

(3) In friction hoist installations, after every six months of service, the position of the hoisting rope within the clamps shall be changed, if practicable, or that portion of the rope within the clamps shall be thoroughly cleaned and examined.

Idem

(4) Every six months the tail rope, guide rope and rubbing rope attachments and tensioning devices shall be thoroughly cleaned and examined. 1970, c. 79, s. 2, *part, amended*.

EXAMINATION OF ROPES AND SAFETY APPLIANCES

Examina-
tion of
ropes and
safety
appliances

369.—(1) The manager shall depute a competent person or persons who shall examine,

- (a) at least once in each day, the exterior of the hoisting rope

and tail rope to detect the presence of kinks or other visible damage and to note the appearance of the rope dressing;

- (b) at least once in each month, the structure of that portion of the hoisting rope that is not on the hoist drum when the conveyance is at its lowest stopping point, and the tail ropes, guide ropes and rubbing ropes, with a view to ascertaining the deterioration thereof, and for the purpose of this examination the rope shall be cleaned at points selected by such person or persons, who shall note any reduction in the diameter or circumference of and the proportion of wear in the rope, and the starting point of the examination shall be changed slightly from month to month in order to obtain more complete information, but any portion showing appreciable reduction in diameter or circumference or appreciable wear shall be checked when the rope is again examined;
- (c) at least once in each month, the portion of the rope that normally remains on the drum of a drum hoist when the conveyance is at its lowest stopping point, and shall lubricate such portion, and, if, during the examination of the rope, significant deterioration is found in the portion on the drum or at the cross-over points, the rope shall be shortened sufficiently to eliminate any crushed portion or to change the position of the cross-over points if either or both are necessary;
- (d) at least once in each day, the safety catches, if any, of the conveyance, to be sure they are clean, sharp and in proper adjustment and working condition;
- (e) at least once in every three months, the safety catches of the cage or other shaft conveyance so equipped by testing the same, such test to consist of releasing the empty conveyance suddenly in some suitable manner from rest so that the safety catches have the opportunity to grip the guides, and, in case the safety catches do not act satisfactorily, the cage or other shaft conveyance shall not be used further for lowering or raising men until the safety catches have been repaired and have been proved to act satisfactorily, as referred to in paragraph 9 of section 332.

(2) In friction hoist installations, the stretch of the hoisting rope or ropes shall be measured and recorded in the Friction Hoist Machinery Record Book. Stretch
to be
recorded

(3) In friction hoist installations, measurement of rope diameters and the location and number of broken wires shall be recorded monthly in the Friction Hoist Machinery Record Book. Rope
diameters
and broken
wires to be
recorded

Engineer
may
conduct
tests

(4) If the district electrical-mechanical engineer deems it necessary, he may, after consultation with the manager, conduct or cause to be conducted specific tests of the safety catches with which a conveyance is equipped.

Defects
to be
remedied
at once

(5) If on examination there is discovered any weakness or defect whereby the safety of persons may be endangered, the weakness or defect shall be immediately reported to the manager or person in charge and, until the weakness or defect is remedied, the hoisting plant shall not be used.

Recording
of examina-
tion and
reports

(6) It is the duty of the person referred to in subsection 1 to record the reports of all examinations therein referred to and also to record all reports referred to in subsection 5 in a book called the Hoisting Machinery Record Book or the Friction Hoist Machinery Record Book, whichever is applicable. 1970, c. 79, s. 2, *part, amended*.

HOIST LOADING

Interpre-
tation

370.—(1) In this section,

- (a) “authorized maximum load of persons” means the total weight of persons permitted by the district mining engineer to be carried at any time in the shaft conveyance;
- (b) “maximum allowable weight” means the maximum weight permitted by this Part to be attached to the rope in service or the maximum weight attached to the rope that the hoist is capable of handling or the maximum weight of material that the conveyance is capable of handling, whichever is the least.

Rated
loading,
drum hoists

(2) Every drum hoist shall be accompanied by a certificate from the manufacturer, or an independent person approved by the chief engineer, giving the maximum permissible rope pull for each drum and the maximum permissible suspended load of the hoist, and the hoist shall not be loaded beyond the maximum loads so specified.

Rated
loading,
friction
hoists

(3) Every friction hoist shall be accompanied by a certificate from the manufacturer, or an independent person approved by the chief engineer, giving the maximum rated unbalanced load and the maximum rated suspended load of the hoist, and the hoist shall not be loaded beyond the maximum loads so specified.

Approval
for
increased
capacity

(4) No alterations designed to increase the hoisting capacity shall be made to a hoist unless approval is given by its manufacturer or an independent person approved by the chief engineer.

Determina-
tion of
maximum
load on
conveyance,
drum hoists

(5) Except as provided in clause *b* of subsection 1, the maximum allowable load to be lowered or raised on the shaft conveyance of a drum hoist means the maximum allowable weight at the end of the rope less the weight of the conveyance.

(6) The maximum material-load allowed on the conveyance of a friction hoist shall be determined from the lesser of the following calculations: Idem,
friction
hoists

1. Maximum allowable suspended load on the hoist, less the weight of the hoisting ropes, less the weight of tail ropes, less the weight of the conveyances and the attachments.
2. The breaking strength of the rope, divided by the required factor of safety, minus the maximum weight of rope suspended in one compartment, minus the weight of the conveyance and attachments in that compartment; and, where multiple ropes are used, the lowest breaking strength of any rope shall be used for all ropes in load calculations.
3. The unbalanced load on the hoist as rated by the manufacturer, which shall not be exceeded.
4. The maximum allowable load on any conveyance, which shall not be greater than that for which the conveyance was rated by the manufacturer.

(7) Where a shaft conveyance is used for the lowering or raising of both persons and materials, the weight on the conveyance when handling its authorized maximum load of persons shall not exceed 85 per cent of the maximum allowable weight permitted for materials. Maximum
persons
load when
conveyance
also used
for
materials

(8) The manager shall obtain from the district mining engineer resident in the district a certificate setting out the maximum loads of persons or materials that may be carried in the shaft conveyance before persons are so carried. Certificate
respecting
maximum
loads

(9) The district mining engineer may issue the certificate referred to in subsection 8 if he is satisfied that the hoisting installation and signalling equipment meet the requirements of this Act. 1970, c. 79, s. 2, *part, amended*. When
certificate
issued

SHAFT HOISTING PRACTICE

371.—(1) The hoisting of persons or materials in a mine shaft by automatic control is subject to the approval of the chief engineer. Hoisting
by auto-
matic
control

(2) Where a hoist in a mine is being operated by automatic control and no other means of hoisting persons is provided, there shall be available a person qualified to operate the hoist manually when persons are underground. 1970, c. 79, s. 2, *part*. Idem

372.—(1) Where steel, timber or other material is being lowered or raised in a shaft conveyance in a mine, it shall be loaded in such a manner as to prevent it from shifting its position, and, if necessary, it shall be secured to the conveyance. Lowering
and
raising
material

Long
material
properly
secured

(2) When such material projects above the sides of the conveyance, it shall be securely fastened to the conveyance or lashed to the hoisting rope in such a manner as not to damage the rope. 1970, c. 79, s. 2, *part*.

Compartment to be lined where crosshead not used

373. Where a crosshead is not used in a vertical shaft or winze in a mine, the compartment in which the bucket works shall be closely lined with sized lumber. 1970, c. 79, s. 2, *part*.

Level of load in bucket or skip

374. In the course of sinking a shaft or winze in a mine, the bucket or skip shall be filled only in such a manner that no piece of loose rock projects above the level of the brim. 1970, c. 79, s. 2, *part*.

Hoisting men in buckets

375. In shaft-sinking operations in a mine, where the hoisting speed exceeds 1,000 feet per minute, persons shall ride in the bucket above the bottom crosshead stop. 1970, c. 79, s. 2, *part*.

Lowering men after blast

376.—(1) During sinking operations in a shaft or winze in a mine, the bucket or skip used for returning persons to the working place following a blasting operation shall not be lowered on the initial trip beyond the point where, owing to the blast, it may be unsafe to go without a careful examination, and in no case shall the point be less than fifty feet above the blasting set or bulkhead.

Idem

(2) The bucket or skip shall be lowered from such point only on signal from the persons accompanying it and at such speed as to be fully under control, by signal, of such persons.

Idem

(3) Only sufficient persons shall be carried on such a trip as are required to properly conduct a careful examination of the shaft or winze. 1970, c. 79, s. 2, *part*.

Bucket or skip not to be lowered directly to face

377. In the course of sinking a shaft or winze in a mine, the bucket or skip shall not be lowered directly to the bottom but shall be held at least fifteen feet above the bottom and shall remain there until a separate signal to lower it has been given by an authorized person. 1970, c. 79, s. 2, *part*.

Bucket to be steadied

378. No bucket shall be allowed to leave the top or bottom of a shaft or winze in a mine until the person in charge of it has steadied it or caused it to be steadied. 1970, c. 79, s. 2, *part*.

Protection from dumping

379.—(1) In the course of sinking a shaft or winze in a mine, adequate provision shall be made and maintained to ensure the impossibility of the bucket or skip being dumped while the dumping doors are open and means shall be applied to prevent spillage from falling into the shaft or winze.

Door to cover sinking compartment

(2) A door or doors to cover the sinking compartments shall be provided and maintained at the collar or other point of service of every shaft or winze in a mine while sinking is in progress.

(3) The design of the things required under subsections 1 and 2 shall be submitted for the approval of the district electrical-mechanical engineer before such things are installed. Design to be approved

(4) The door or doors referred to in subsection 2 that are at the point of loading shall be kept closed when tools or material are being loaded into or unloaded from the bucket or skip, except when the bucket or skip is unloaded by dumping arrangements as provided for in subsection 1. Doors to be closed

(5) The door or doors referred to in subsection 2 shall be closed when persons are loaded or unloaded, except where a safety crosshead fills the compartment at the collar or other point of service. Idem

(6) Any doors or other shaft fixture which when moved into the travel area of a shaft compartment would interfere with free passage of the conveyance shall be so equipped that their position is indicated to the hoistmen by signal lights. 1970, c. 79, s. 2, *part*. Warning of obstruction

380. Except during sinking operations, whenever a mine shaft or winze exceeds 300 feet in vertical depth, a suitable cage or skip constructed as required by sections 331 and 332 shall be provided for lowering or raising men in the shaft or winze. 1970, c. 79, s. 2, *part*. Cage for handling men

381.—(1) No person shall travel or be permitted to travel in a cage at any time, except during shaft inspection, unless the doors of the cage are securely closed. Cage doors to be closed

(2) The doors of a cage shall not be opened until a full stop has been made at the point or station signalled except, Idem

(a) during trips of inspection; and

(b) as permitted by subsection 3.

(3) In the case of an inadvertent stop at a point in the shaft or winze other than a station, the cage doors may be opened and then persons may leave the cage only on the instructions of an authorized person outside the cage. 1970, c. 79, s. 2, *part*. Idem

382.—(1) Where chairs are used for the purpose of landing a shaft conveyance at a point in a shaft or winze, except when hoisting in balance from that point, the chairs shall not be put into operation unless the proper chairing signal has been given to the hoistman. Operation of chairs

(2) Chairs shall not be used when persons are in or on a shaft conveyance. 1970, c. 79, s. 2, *part*. Idem

383.—(1) Except as provided for in clause *c* of section 384, no person shall travel or be permitted to travel in a bucket, cage or skip operated by a hoist that is being simultaneously used for the hoisting of mineral or material. Hoisting persons and material simultaneously

Persons
only in
approved
conveyances

(2) No person shall be lowered or raised or permit himself to be lowered or raised in a shaft or other underground opening except in an approved raise climber, or a scaling platform, or in an approved hoisting conveyance as provided for in section 384, but this prohibition does not apply where persons are lowered or raised by hand or by means approved by the district electrical-mechanical engineer for use in construction, maintenance or repair work. 1970, c. 79, s. 2, *part*.

When
persons
not to be
hoisted

384. No person shall be lowered or raised or allow himself to be lowered or raised in a shaft, winze, or other underground opening of a mine,

- (a) in a bucket or skip, except that persons employed in shaft sinking may ascend and descend to and from the sinking deck or other place of safety and the persons employed in shaft inspection and maintenance may be lowered and raised in the shaft by means of such conveyance;
- (b) in a cage or skip that does not meet the requirements of sections 332 and 334, except as provided for in clause *a* of this section or section 333;
- (c) in a cage, skip or bucket that is loaded with explosives or blasting agents, steel, timber or other material or equipment, except where such person is authorized to handle such material in a cage, skip or bucket and the materials are adequately secured as required by section 372, but nothing in this clause prohibits persons from carrying personal hand tools or equipment approved by the district mining engineer in a shaft conveyance if such tools or equipment are properly protected with guards and the conveyance is not overcrowded;
- (d) in any shaft conveyance, except during shaft sinking operations or shaft inspection and maintenance operations, except where a person authorized to give signals is in charge of the shaft conveyance. 1970, c. 79, s. 2, *part*.

Use of
conveyance
if drum
unclutched

385. Except in the course of sinking a shaft in a mine, no person shall enter or be allowed to enter a shaft conveyance or work upon or under a shaft conveyance when the corresponding drum of the hoist is unclutched, unless the conveyance is first secured in position by chairing or blocking. 1970, c. 79, s. 2, *part*.

Permission
necessary
to handle
men in skip
or bucket

386. Permission shall be obtained from the chief engineer before a skip or bucket is used for lowering or raising persons in a shaft or winze of a mine, except during sinking, inspection or maintenance operations. 1970, c. 79, s. 2, *part*.

387. Where a bucket is used in a shaft or winze in a mine for other than sinking purposes, Use of shaft buckets

- (a) a set of doors as required by subsection 2 of section 379 shall be installed at the collar and every point of service of the shaft or winze;
- (b) a suitable landing device shall be used at every working level when the bucket is being loaded or unloaded at that level; and
- (c) simultaneous operations shall not be carried on at more than one level until the style of structure and method of operation of any such device installed at intermediate levels have been submitted to and have received the approval of the district mining engineer. 1970, c. 79, s. 2, *part.*

CONVEYANCE NOTICES AND DISCIPLINE

388.—(1) A notice showing clearly the number of persons allowed to be carried in and the weight of materials allowed to be loaded on the conveyance, as referred to in subsection 6 of section 370, shall be posted and maintained at the collar of the shaft or winze. Notice to be posted

(2) The person authorized to give signals is responsible for the observance of such notice. 1970, c. 79, s. 2, *part.* Responsibility

389.—(1) When persons are being lowered or raised in a cage or skip, no person, other than the cagetender or skiptender, shall have a burning open-flame lamp of any kind, except that, for shaft inspection or similar purposes, a sufficient number of lighted lamps shall be permitted. Lamps

(2) When persons are being lowered or raised in a cage or skip, a proper discipline of the persons riding in the cage or skip shall be maintained. Discipline to be maintained

(3) No person shall obstruct the enforcement of the requirements of subsection 1 of section 388 or this section 1970, c. 79, s. 2, *part.* Obstruction prohibited

SIGNALS

390. Every working shaft in a mine shall be provided with a suitable means of communicating by distinct and definite signals to the hoist room from the bottom of the shaft, from every working level, from the collar and from every landing deck. 1970, c. 79, s. 2, *part.* Signal systems

391. A separate, audible signal system shall be installed for the control of each hoisting conveyance operated from a single hoist in a mine, and there shall be a sufficient difference in the signals to the hoistman so that they are easily distinguishable. 1970, c. 79, s. 2, *part.* Separate system for each compartment

Return
signals

392.—(1) Where an electrical signal system is installed in a mine, the hoistman shall return the signal to the person giving the signal when persons are about to be lowered or raised.

Idem,
multi-deck
staging

(2) Where multi-deck staging is being used for shaft-sinking in a mine, an audible or visible return signal system shall be installed and used. 1970, c. 79, s. 2, *part*.

Special
devices

393. No device for signalling to or communicating with the hoistman shall be installed or operated in or on any shaft conveyance in a mine without the written permission of the chief engineer. 1970, c. 79, s. 2, *part*.

Cage call
system

394. No cage call system communicating with the hoist room shall be installed or used at a shaft or winze in a mine. 1970, c. 79, s. 2, *part*.

Code of
signals

395.—(1) The following code of signals shall be used at every mine and a copy of such code shall be printed and kept posted in every hoist room and at every level or other recognized landing place in every working shaft or winze:

1 bell Stop immediately — if in motion
(Executive Signal).

1 bell Hoist (Executive Signal).

2 bells . . . Lower (Executive Signal).

3 bells . . . Men travelling in hoisting conveyance (Cautionary Signal). This signal shall be given by the conveyance tender at all levels before any person, including the conveyance tender, is permitted to enter or leave the conveyance. Where a stop exceeds one minute, the 3-bell signal shall precede the next destination signal. Where a return-bell signal system is installed, the hoistman shall return the 3-bell signal before any person is permitted to enter or leave the conveyance.

4 bells . . . Blasting Signal. The hoistman shall answer by raising the bucket, cage or skip a few feet and letting it back slowly. Following a 4-bell signal, only a 1-bell signal shall be required to signal for hoisting persons away from a blast and the hoistman shall remain at the controls until the act of hoisting has been completed.

5 bells . . . Release Signal. The hoistman may act at his own discretion to perform any movements, or series of movements, involving the conveyance or conveyances designated by the destination signals

referred to in section 396. Where a return-signal system is installed, the hoistman shall return the signals and may then act at his own discretion. On the completion of the necessary movements, he shall not move the hoist again until he has received a new signal.

- 9 bells Danger Signal (Special Cautionary). To be given only in case of fire or other danger. The signal for the level at which the danger exists should be given following the giving of the danger signal. This signal to be given only on the call system or voice communication system except in shaft sinking and maintenance.

(2) The following method and order shall be observed in giving signals: Method and order of signals

1. Strokes on the bell shall be made at regular intervals.
2. Signals shall be given in the following order: 1st, Cautionary Signals; 2nd, Destination Signals; 3rd, Executive Signals. 1970, c. 79, s. 2, *part*.

396.—(1) At every mine, other signals, termed destination signals, in conjunction with the code set forth in subsection 1 of section 395 shall be used to designate all regular stopping points. Special signals

(2) Special signals shall be used to designate all special hoisting movements. Idem

(3) Special signals shall be easily distinguishable from the code set forth in subsection 1 of section 395 and shall not interfere with it in any way and shall follow the Department's standard mine signal code, and any deviation from the latter shall be approved by the chief engineer. Idem

(4) Such destination signals and other special signals approved for use at any mine and an adequate description of their application to the movements required shall be posted at every hoist, at the top of the shaft or winze and at every working level of the shaft or winze. 1970, c. 79, s. 2, *part*. Idem

397.—(1) Except as provided in subsection 2, the hoistman shall not move the hoisting conveyance within a period of ten seconds after receiving a signal designating a movement at any time that persons are carried. Hoistman not to move conveyances

(2) The waiting period mentioned in subsection 1 is not required where throughout the shaft or winze the executive signal given only after the hoisting conveyance doors and the shaft gates have been completely closed and the person giving the signal is inside the conveyance or in the shaft station or other recognized landing place. Where waiting period not required

If unable
to act
within one
minute

(3) In case the hoistman is unable to act within one minute of the time he has received any complete signal, he shall not move the hoisting conveyance until he has again received another complete signal. 1970, c. 79, s. 2, *part*.

3-bell
signal

398.—(1) After a hoistman has received a 3-bell signal, he shall remain at the hoist controls until he has received the signal designating the movement required and has completed that movement.

Idem

(2) After the hoistman has commenced the movement, he shall complete it without interruption, unless he receives a stop signal or in case of emergency. 1970, c. 79, s. 2, *part*.

Talking to
hoistman

399. Except in case of emergency, no person shall speak to the hoistman while the hoist is in motion, and a sign to this effect plainly visible to any person approaching the hoist controls shall be kept posted at all times. 1970, c. 79, s. 2, *part*.

Signal
required

400.—(1) Except as provided in subsection 2, the hoistman shall not move the hoisting conveyance until he has received a proper signal.

Exception

(2) In the event of an inadvertent stop at some point in the shaft or winze other than at a station from which a signal may be given, the hoistman may move the conveyance when he has assured himself that the hoist controls are in proper working order and, when lowering or raising persons he has received instructions from an authorized person. 1970, c. 79, s. 2, *part*.

Only
authorized
persons
to give
signal

401.—(1) No person, unless he is authorized so to do, shall give any signal for moving or stopping a bucket, cage or skip in a mine.

Idem

(2) No unauthorized person shall give any signal or in any way interfere with the hoist signalling arrangements. 1970, c. 79, s. 2, *part*.

Voice com-
munication

402.—(1) A system shall be installed in any active shaft or winze to provide voice communication between the collar and regular landing places.

Idem

(2) Such installations shall be provided at suitable intervals. 1970, c. 79, s. 2, *part*.

Position of
conveyance

403. No signal shall be given unless the bucket, cage or skip is at the level from which the signal is to be given. 1970, c. 79, s. 2, *part*.

Hoistman
to remain
at controls

404.—(1) Except when the hoist is operating under automatic control, the hoistman shall remain at the hoist controls at all times the hoist is in motion.

(2) Before a hoistman leaves the hoist controls, he shall ensure that the brakes are fully set and that there will be no inadvertent motion of the hoist drums. Idem

(3) No person, unless he is authorized so to do, shall operate any equipment for controlling the movement of the hoist or interfere with the equipment. 1970, c. 79, s. 2, *part*. Only authorized persons may operate hoist

HOISTING PROCEDURE

405.—(1) If at the commencement of a shift there has been a stoppage of hoisting in a shaft for a period exceeding two hours duration, no regular hoisting shall be done until the shaft conveyance has made one complete trip through the working part of the shaft or, where shaft repairs have been made, a return trip of the shaft conveyance has been made through and below the affected part of the shaft. Hoisting after stoppages

(2) The hoistman shall record all such stoppages and trips in the Hoistman's Log Book. 1970, c. 79, s. 2, *part*. Record of stoppages

406. Where a hoist is equipped with an auxiliary overwind device for preventing persons from being hoisted to the dumping position in skips or in skips of skipage assemblies as required in section 541, the hoistman shall place the device in operation or assure himself that it is in operation at all times that persons are in or on the conveyance. 1970, c. 79, s. 2, *part*. Man safety device

407. Where obstructions such as those referred to in section 535 may exist, the hoistman shall not lower or raise the shaft conveyance without proper authority. 1970, c. 79, s. 2, *part*. Obstructions

408. All overwind and underwind devices shall be tested at least once during every twenty-four hours of operation and a record of the test shall be entered immediately in the Hoistman's Log Book. 1970, c. 79, s. 2, *part*. Testing overwind devices

409.—(1) The operator of a hoist shall, after going on shift and before a shaft conveyance is lowered or raised, assure himself that the brake or brakes are in proper condition to hold the loads suspended on the corresponding drum or drums by testing the brakes of the drums against the normal starting power of the engine or, in the case of an electric hoist, against the normal starting current. Brakes to be tested

(2) The operator of a hoist shall not unclutch a drum of the hoist until the test mentioned in subsection 1 has been made. 1970, c. 79, s. 2, *part*. Drum not to be unclutched

410.—(1) Where a hoist is fitted with a friction clutch, the operator shall, after going on shift and before a conveyance is lowered or raised, test the holding power of the clutch, the brake Friction clutches

of the corresponding drum being kept on and the brake of the other drum being kept off.

Idem

(2) In the case of a steam or air hoist, the test mentioned in subsection 1 shall be made against the normal starting power of the engine and, in the case of an electric hoist, against the normal starting current. 1970, c. 79, s. 2, *part*.

Use of
brake when
drum
unclutched

411.—(1) When the drum of a hoist is unclutched, the brake of the drum shall be used only for the purpose of maintaining the drum in a stationary position, and no lowering shall be done from an unclutched drum.

Unclutching
procedure

(2) Before commencing unclutching operations, the hoistman shall ensure that the brakes have been applied on both hoist drums.

When
clutch to be
kept in

(3) When persons are in or on a shaft conveyance, the corresponding drum of the hoist shall be kept clutched in. 1970, c. 79, s. 2, *part*.

HOISTMAN'S LOG BOOK

Hoistman's
Log Book

412.—(1) At every shaft or winze hoist, there shall be kept a Hoistman's Log Book in which the following shall be recorded:

1. A report of the working condition of the hoist, including the brakes, clutches, interlocking devices between the brake and clutch, depth indicators and all other devices and fittings pertaining to the safe operation of the hoist.
2. A report of the working condition of the signalling apparatus and a notation of any signals received by the hoistman, the accuracy of which he has questioned.
3. Any special instructions received involving the safety of persons, such entry to be signed by the hoistman and by the person issuing the instructions.
4. A report of the tests of the overwind and underwind devices.
5. Where the required tests of the overwind and underwind devices are conducted by a hoistman operating on another shift, the hoistman assuming duty shall note over his signature that he has examined the entry in the log book of the hoistman who performed the tests.
6. A report of all abnormal circumstances in connection with the operation of the hoist or attachments thereto and such abnormal conditions as have come to the hoistman's knowledge in connection with the hoisting operations in the shaft or winze.
7. A report of all trial trips referred to in sections 367 and 405.

(2) A notification to the hoistman on a succeeding period of duty of any special circumstances or matter affecting the continued operation of the hoist or the safety of persons in the shaft or winze shall be made in the Hoistman's Log Book. Idem

(3) All such entries shall be read and countersigned by the hoistman assuming duty for the succeeding period. Idem

(4) Such entries as are required by this section shall be made and signed by every hoistman for his period of duty on a shaft or winze hoist and the time and duration of his period of duty shall also be noted, and such entries as have been made during the preceding twenty-four hours shall be read and countersigned each day by the master mechanic or other authorized person. Idem

(5) The log book shall be available to the district engineer at all times. 1970, c. 79, s. 2, *part*. Idem

RAISE CLIMBERS

413.—(1) Raise climbers shall be fitted with more than one means of braking, each capable of stopping the climber and holding it in place. Brakes

(2) The operator of a raise climber shall ensure at the beginning of his shift that the brakes are in safe working condition. Testing of brakes

(3) Raise climbers shall be maintained in safe operating condition. Maintenance

(4) The rated load capacity of a raise climber as certified by the manufacturer shall not be exceeded. Load capacity

(5) Where raise climbers are used pursuant to section 271 or subsection 2 of section 383, an approved log book shall be maintained. Log book

(6) A record of inspections, maintenance and repairs shall be maintained in the log book. Record kept

(7) The log book shall be available to the district engineer at all times. 1970, c. 79, s. 2, *part*. Availability to engineer

PITS AND QUARRIES

414.—(1) In workings of clay, sand, gravel or other types of unconsolidated material, the method of removing material by undermining shall not be used. Undermining prohibited

(2) Where mechanical equipment is not used, no working face in workings of clay, sand, gravel or other types of unconsolidated material shall have a vertical height of more than ten feet unless the material is at a suitable angle to ensure safety. Height of working face

(3) Where the thickness of the material exceeds ten feet in vertical depth, the work shall be done in terraces or at a suitable angle to ensure safety. Terraces

Use of
mechanical
equipment

(4) Where mechanical equipment is used in loading clay, sand, gravel or any other type of unconsolidated material, unless the material is at a suitable angle of repose, no working place shall have a vertical height of more than five feet above the top of the boom or the bottom of the bucket raised to its highest operating position.

Use of
internal
combustion
engines

(5) No internal combustion engine shall be installed or operated in any pit or quarry unless adequate provision is made to ensure that exhaust gases and fumes will not accumulate therein to a degree that is likely to endanger the safety of any person. 1970, c. 79, s. 2, *part*.

Height of
face in
consolidated
material

415. Unless permission in writing is first obtained from the chief engineer, all open-cut (cast) operations (workings) in consolidated material over sixty-five feet in depth shall be worked in benches not more than sixty-five feet high, and due precautions shall be taken to maintain the walls, benches and broken material in a safe working condition, and no working face shall be advanced by undercutting, except where a tunnelling method is used. 1970, c. 79, s. 2, *part*.

Fencing pits
and quarries

416. Every pit or quarry dangerous by reason of its depth shall be securely fenced or otherwise protected against inadvertent access. 1970, c. 79, s. 2, *part*.

Stripping
overburden

417.—(1) In all open-pit workings, all unconsolidated materials, such as clay, earth, sand, gravel, and loose rock, lying within six feet of the rim of the pit or quarry, shall be removed.

Idem

(2) Beyond this strip, all overburden shall be sloped to an angle less than its natural angle of repose. 1970, c. 79, s. 2, *part*.

Precautions
when stock-
piling

418.—(1) When dumping material from a vehicle to a stockpile, appropriate precautions considering weather and other relevant conditions shall be taken to keep the vehicle at a safe distance from the edge.

Exits from
tunnels
under
stockpiles

(2) Two exits shall be provided from a tunnel under a stockpile. 1970, c. 79, s. 2, *part*.

Property
boundaries,
unconsol-
idated
material

419.—(1) Unless the adjoining owners agree to dispense therewith, in sand, clay or gravel or other natural unconsolidated material, excavation operations shall not be carried on within a distance from the property boundary of half the height of the total pit face, and material that sloughs from within this distance shall not be removed.

Idem,
rock
quarries

(2) Unless the adjoining owners agree to dispense therewith, no quarrying operation shall be carried on in a rock quarry within a distance of fifteen feet from the property boundary.

(3) Subject to subsection 2, where there is overburden in a rock quarry, the natural slope of the overburden shall be allowed for from the property boundary in addition to the six feet required by subsection 1 of section 417. 1970, c. 79, s. 2, *part*. Idem

420.—(1) No person shall be permitted to work near a pit or quarry wall until the wall has been examined by the supervisor in charge of the crew. Examination of wall

(2) If the wall is found unsafe, the supervisor shall have all hazards removed before permitting any other work. 1970, c. 79, s. 2, *part*. Idem

421. Derrick guy wires shall be regularly inspected and maintained. 1970, c. 79, s. 2, *part*. Inspection of derrick guy wires

422.—(1) Every person engaged in work on the wall of a pit or quarry at such operations as barring loose material, scaling or cleaning, shall wear continuously a safety belt or safety harness. Safety belts and safety harnesses

(2) The rope of such belt or harness shall be securely snubbed above the working place or the rope may be held taut by an adequate number of persons. 1970, c. 79, s. 2, *part*. Snubbing, etc.

423. No person shall be lowered or raised or allow himself to be lowered or raised by means of a hoist or derrick at a pit or quarry unless permission is first obtained in writing from the chief engineer. 1970, c. 79, s. 2, *part*. Hoisting of persons prohibited

424. Where a loan is being hoisted or lowered by means of a hoist or derrick at a pit or quarry, a signalman, where required, shall notify all persons in the vicinity to retire to a place of safety until the load has cleared the danger zone. 1970, c. 79, s. 2, *part*. Signalman to clear area

425.—(1) An effective block, automatic derail or safety switch shall be provided at the top of each inclined place at a pit or quarry to prevent cars from accidentally running down. Derail at top of incline

(2) Such installation, however, is not required where the skip or car remains attached to the hoisting rope. 1970, c. 79, s. 2, *part*. Exception

426. At all rock quarries and open pits, a record of each primary blast, signed by the person in charge of the blast, shall be kept and the following information recorded: Record of primary blasts

1. Date, time and location of the blast.
2. Burden, spacing, depth and number of holes blasted.
3. Weight of explosives or blasting agents, footage of top stemming and firing delay detonators used in respect of each hole.
4. Weight of explosives or blasting agents used per estimated ton broken. 1970, c. 79, s. 2, *part*.

Hoisting
signals

427. Unless the movement of a hoisting conveyance at a pit or quarry is visible to the hoistman at all times, a suitable signal system shall be installed and maintained, and suitable signals, approved by the district mining engineer, shall be used. 1970, c. 79, s. 2, *part*.

Travelling
ways

428.—(1) At every pit or quarry, there shall be provided and maintained in good working condition a suitable travelling way leading from the working level of the pit or quarry to the surface.

Where
stairways
or ladders
mandatory

(2) Where the travelling way is inclined at more than 30 degrees and less than 50 degrees to the horizontal, stairways or ladders shall be provided.

Hand-rails
on stairways

(3) All stairways shall be equipped with substantial and suitably placed hand-rails.

Where
ladders
mandatory

(4) Where the travelling way is inclined at more than 50 degrees to the horizontal, ladders shall be provided.

Platforms

(5) Substantial platforms shall be built at intervals not exceeding twenty-one feet in the ladderway and at all places where the ladders are off-set.

Maximum
inclination
of ladders

(6) Except for approved access ladders to equipment, no ladder shall be installed at an inclination of more than 70 degrees to the horizontal. 1970, c. 79, s. 2, *part*.

STEAM, COMPRESSED AIR

Steam
boilers

429.—(1) Every steam boiler used for generating steam in or about a mine, whether separate or one of a range,

(a) shall have attached to it a proper safety-valve, steam-gauge and water-gauge to show respectively the pressure of steam and the height of water in each boiler; and

(b) shall be inspected by an Ontario Government boiler inspector or by an inspector of a boiler insurance company at least once in every twelve months, and a certified copy of the report of the inspection shall be forwarded to the chief engineer.

Certificate
to be
posted

(2) The certificate of inspection shall be kept posted in the boiler room at all times. 1970, c. 79, s. 2, *part*.

Mainten-
ance

430. Every such boiler, safety-valve, steam-gauge and water-gauge shall be maintained in proper working condition. 1970, c. 79, s. 2, *part*.

Air receivers
and com-
pressors

431.—(1) Every air receiver installed at the surface of a mine and those installed with an air compressor underground shall be inspected by an Ontario Government boiler inspector or by an inspector of a boiler insurance company at least once in every twelve months, and a certified copy of the report of the inspection shall be forwarded to the chief engineer.

(2) The certificate of inspection shall be kept posted in the compressor room at all times.

Certificate to be posted

(3) All intercoolers, aftercoolers, inlet and discharge valves on stationary compressors in operation shall be examined at least once in every twelve months and shall be cleaned when necessary.

Examination and maintenance

(4) A temperature-indicating device shall be installed on the high pressure discharge of each compressor and the normal operating temperature of the compressor shall be indicated by a red mark on the scale of the device.

Temperature-indicating device

(5) The temperature shall be observed at regular intervals during the shift and shall be recorded in the compressor log book.

Recording of temperature

(6) Subsections 3, 4 and 5 do not apply to,

Exceptions

- (a) a compressor discharging to atmosphere;
- (b) a compressor installation with a prime-mover having a Therm-hour rating of 1.145 or less;
- (c) a compressor plant used for compressing air to a pressure of more than 15 pounds per square inch where the total Therm-hour rating of the prime-mover or movers is 1.908 or less; or
- (d) a compressor where the cylinders are not lubricated with oil.

(7) The air receivers mentioned in subsection 1 shall be examined at least once in every twelve months and shall be cleaned when necessary.

Examination of air receivers

(8) A book, available to the district engineer, shall be kept in which shall be recorded the date of every examination and cleaning under subsections 3 and 7 and a note shall be made as to the condition of the appliance examined or cleaned. 1970, c. 79, s. 2, *part*.

Record of examinations

USE OF ELECTRICITY

432.—(1) In this section and in sections 433 to 571, governing the use of electricity,

Interpretation

- 1. “accessible”, as applied to equipment, means permitting close approach due to not being guarded by locked doors, elevation or other effective means;
- 2. “armoured cable” means a cable provided with an outer covering, fabricated from a metal other than lead, which forms an integral part of the assembly of the cable and is designed primarily to afford mechanical protection;
- 3. “authorized person” means,
 - i. a qualified person who, because of his duties or occupation, is delegated to approach or handle electrical equipment, or

- ii. any other person who, having been warned of the hazards involved, has been instructed or authorized to approach or handle electrical equipment by some person having authority to give the instructions or authorization;
- 4. "branch circuit" means the part of a circuit that extends beyond the final over-current devices on the circuit;
- 5. "circuit" means a path through which electric current can flow;
- 6. "circuit-breaker" means an electro-mechanical device designed to open, under both overload and short-circuit conditions, a current-carrying circuit without injury to the device;
- 7. "conductor" means a body so constructed from conducting material that it may be used as a carrier of electric current;
- 8. "contactor" means a device, operated other than by hand, for repeatedly establishing and interrupting an electric power circuit;
- 9. "disconnecting means" means a device, group of devices or other means whereby the conductors of a circuit can be disconnected from their source of supply;
- 10. "electrical equipment" means any apparatus, appliance, device, instrument, fitting, fixture, machinery, material or thing used in or for, or capable of being used in or for, the generation, transformation, transmission, distribution, supply or utilization of electric power or energy, and, without restricting the generality of the foregoing, includes any assemblage or combination of materials or things which is used, or is capable of being used or adapted, to serve or perform any particular purpose or function when connected to an electrical installation, notwithstanding that any such materials or things may be mechanical, metallic or non-electric in origin;
- 11. "feeder" means a conductor, or group of conductors, which transmits electrical energy from a service supply, transformer, switchboard, distribution centre, generator or other source of supply to branch circuit overcurrent devices;
- 12. "ground" means a connection to earth obtained by a ground electrode;
- 13. "ground electrode" means a buried metallic water-piping system or metal object or device buried in or driven

into the ground so as to make intimate contact therewith and to which a grounding conductor is electrically and mechanically connected;

14. "grounded" means connected effectively with the general mass of the earth through a grounding system having a current-carrying capacity sufficient at all times, under the most severe conditions that are liable to arise in practice, to prevent a current in the grounding conductor from causing a harmful voltage to exist,
 - i. between the grounded conductors and neighbouring exposed conducting surfaces that are in good contact with the earth, or
 - ii. between the grounded conductors and neighbouring surfaces of the earth itself;
15. "grounding conductor" means a path of suitable metal specially arranged as a means whereby electrical equipment is electrically connected to a ground electrode;
16. "grounding system" means all conductors, clamps, ground clips, ground plates or pipes and ground electrodes by means of which the electrical installation is grounded;
17. "guarded" means covered, shielded, fenced, enclosed or otherwise protected by means of suitable covers, or casings, barriers, rails or screens, mats or platforms, to remove the likelihood of dangerous contact or approach by persons or objects;
18. "isolating means" means a device, group of devices or other means intended for isolating an electric circuit from its source of power and intended to be operated only after the circuit has been opened by some other means;
19. "mobile", as applied to electrical equipment, means the equipment is specifically designed not to be used in a fixed position;
20. "overcurrent device" means any device capable of automatically opening an electrical circuit both under pre-determined overload and short-circuit conditions either by fusing of metal or by electro-mechanical means;
21. "overload device" means a device affording protection from excess current but not necessarily short-circuit protection, and capable of automatically opening an electric circuit either by the fusing of metal or by electro-mechanical means;

22. "qualified person" means a person familiar with the construction and operation of electrical equipment and the hazards involved;
23. "switch" means a device for making, breaking or changing connections in a circuit, and
 - i. "general use switch" means a switch that is intended for use in general distribution and branch circuits, is rated in amperes and is capable of interrupting its rated current at rated voltage, and
 - ii. "motor circuit switch" means a switch, rated in horsepower, capable of interrupting the maximum operating overload current of a motor of the same horsepower at the rated voltage;
24. "switchboard" means a panel or assembly of panels on which are mounted any combination of switching, measuring, control and protective devices, buses and connections, designed with a view to successfully carrying and rupturing the maximum fault current encountered when controlling incoming and outgoing feeders;
25. "utilization equipment" means equipment, devices and connected wiring that utilize electrical energy for mechanical, chemical, lighting, testing or similar purposes and are not a part of the supply equipment, supply lines or communication lines;
26. "visible break", where applied to a disconnecting means, means a switch or device wherein the separation between all members of the movable and the fixed current-carrying parts may be readily determined by visual inspection;
27. "voltage" or "volts" means the highest effective difference of potential between the conductors of the circuit concerned;
28. "voltage to ground" means,
 - i. in grounded circuits, the highest effective difference of potential between any wire of the circuit and ground,
 - ii. in ungrounded circuits, the highest effective difference of potential existing in the circuit;
29. "wire gauge" means the standard known as A.W.G. (American Wire Gauge) or B. & S. (Brown and Sharpe) wire gauge.

GENERAL

433. In case of the abandonment of a mine or plant, the owner, agent or manager shall cause the station or stations supplying power to and being the property of the mine or plant to be disconnected from the power source and within fourteen days shall notify the chief engineer in writing that the disconnection has been made. 1970, c. 79, s. 2, *part*. Disconnection when abandoned

434.—(1) Electrical equipment shall be designed, installed and maintained in compliance with the requirements of this Part. Requirements to be observed

(2) The district electrical-mechanical engineer shall be notified of any proposed, Notification required

(a) major electrical installation;

(b) radio-frequency transmitter installation; or

(c) major extension to existing installations. 1970, c. 79, s. 2, *part*.

435. The edition that is current from time to time of the Canadian Electrical Code, Part I, shall be accepted as good practice in the installation of electrical equipment except where it conflicts with the provisions of this Part in which case the provisions of this Part prevail. 1970, c. 79, s. 2, *part*. Accepted standard

436. All electrical equipment shall be of such construction and so installed and maintained as to reduce fire hazard and injury to persons as far as is practicable. 1970, c. 79, s. 2, *part*. Hazard free

437. All electrical equipment shall be suitably identified where necessary for safety. 1970, c. 79, s. 2, *part*. Identification of equipment

438. Electrical equipment shall show a plate bearing the maker's name and all other ratings, such as horsepower, voltage or current, necessary to prove its suitability. 1970, c. 79, s. 2, *part*. Nameplate required

439.—(1) Where electrical equipment is used at a mine or plant, it shall be in the charge of an authorized person who shall be qualified by experience to handle such equipment. Competent person in charge

(2) Every person operating or having charge of electrical equipment shall have been instructed in his duty and shall be competent to perform the work that he is set to do. Idem

(3) Repairs, extensions and changes to existing electrical installations shall be made only by qualified persons. 1970, c. 79, s. 2, *part*. Idem

Temporary
installations

440. Temporary wiring and equipment that do not comply with this Part may be used in an emergency, but only when under competent supervision or protected by suitable barriers or warning signs while it or neighbouring wiring is alive and accessible to unauthorized persons, and such temporary installations are permissible only for the period of the emergency. 1970, c. 79, s. 2, *part*.

Defective
equipment

441.—(1) Defective equipment shall be put in good order or permanently disconnected.

Defective
wiring

(2) Defective wiring shall be repaired or removed. 1970, c. 79, s. 2, *part*.

Repairs
or altera-
tions to
electrical
equipment

442.—(1) No repairs or alterations shall be carried out on live equipment except where complete disconnection of the equipment is not practicable.

Idem

(2) When repairs or alterations are being made, whether the equipment is alive or dead, all necessary precautions shall be taken to ensure that the work may be done safely.

Idem

(3) In places where explosive or highly flammable materials or gases are present, or in wet locations, repairs or alterations shall not be made on live equipment. 1970, c. 79, s. 2, *part*.

Locking or
tagging
switches

443.—(1) All switches controlling electrical equipment shall be locked or plainly tagged in the open position to prevent the inadvertent closing thereof while work is being done on the apparatus.

Idem

(2) Notices placed on electrical equipment shall be of non-conducting materials. 1970, c. 79, s. 2, *part*.

Fire-
extinguish-
ing
appliances

444.—(1) Where installed electrical equipment presents a fire hazard, each room or space shall be provided with an adequate approved fire-extinguishing appliance, conveniently located and conspicuously marked.

Idem

(2) Any fire-extinguishing appliance that has not been approved for use on live parts shall not be placed in a room containing electrical equipment or exposed lines unless a sign is mounted at the appliance warning against its use on electrical fires. 1970, c. 79, s. 2, *part*.

GROUNDING

Protection
from
mechanical
injury
Circuits
to be
grounded

445. Grounding conductors shall have adequate protection where exposed to mechanical injury. 1970, c. 79, s. 2, *part*.

446.—(1) One conductor of all circuits not over 150 volts shall be grounded if exposed to leakage from higher voltage circuits either through overhead construction or through transformers having a primary voltage exceeding 750 volts, except where such circuits form part of a control circuit or signalling system the grounding of which would affect the reliability of service.

(2) Three-wire single-phase circuits not exceeding 300 volts Idem
between outer conductors shall have the neutral grounded.

(3) One conductor of the secondary circuits of all instrument Idem
transformers shall be grounded unless the circuits are installed
and guarded as required for the high-voltage circuits of the
transformers. 1970, c. 79, s. 2, *part*.

447.—(1) For grounding a.c. circuits, the grounding conduc- Size of
tors shall have adequate current-carrying capacity and shall be circuit
not less than No. 8, A.W.G. grounding
conductor

(2) The grounding conductor for secondary circuits of instru- Idem
ment transformers shall not be smaller than the conductors of the
secondary circuit. 1970, c. 79, s. 2, *part*.

448.—(1) The exposed non-current-carrying metal parts of Equipment
all electrical equipment shall be grounded when practicable, to be
grounded

(a) for all equipment over 150 volts; and

(b) for all equipment under 150 volts where the exposed
non-current-carrying metal parts are within reach of
exposed grounded surfaces, such as metal frames of
other machines, plumbing fixtures, conducting floors or
walls.

(2) Grounded surfaces within five feet horizontally of the parts Idem
considered or within eight feet vertically of the floor shall be
considered within reach. 1970, c. 79, s. 2, *part*.

449.—(1) The minimum size of grounding conductor for Size of
raceways and fixed equipment shall be not less than that provided equipment
by a copper conductor of a size indicated in the following table: grounding
conductor

MINIMUM SIZE OF GROUNDING CONDUCTOR
FOR RACEWAYS AND EQUIPMENT

Rating or Setting of Automatic Overcurrent Device in Circuit Ahead of Equipment, Conduit, etc., Not exceeding— Amperes	Size of Grounding Conductor			
	Copper Wire AWG	Alum. Wire AWG	Conduit or Pipe Inch	Electrical Metallic Tubing Inch
20	16*	14*	1/2	1/2
30	14	12	1/2	1/2
40	12	10	1/2	1/2
60	10	8	1/2	1/2
100	8	6	1/2	1/2
200	6	4	1/2	1
400	4	2	3/4	1 1/4
600	2	0	3/4	1 1/4
800	0	00	1	2
1000	00	000	1	2
1200	000	0000	1	2

*Permissible only when part of an approved cable assembly.

Idem

(2) Where the grounding conductor is run outside the cable armour or conduit enclosing the associated circuit conductors, the minimum size of such a grounding conductor shall be No. 8, A.W.G. 1970, c. 79, s. 2, *part*.

Grounding
conductor
size for
portable
equipment

450. Flexible cord used to supply portable equipment having a rating of fifteen amperes or less at voltages not exceeding 250 volts shall have included in the cord assembly a grounding conductor whose size shall be,

- (a) not smaller than No. 16, A.W.G. if uninsulated, or No. 18, A.W.G. if insulated; and
- (b) at least the same size as the current-carrying conductors, except that, in cords of No. 12, A.W.G. and larger, it may be two A.W.G. sizes smaller than the other conductors. 1970, c. 79, s. 2, *part*.

Means of
attachment
to circuits
and
equipment

451. The grounding conductor, bond or bonding jumper shall be attached to circuits, conduits, cabinets, equipment and the like, which are to be grounded, by means of suitable lugs, pressure connectors, clamps or other approved means. 1970, c. 79, s. 2, *part*.

Material
for
grounding
conductors

452. The grounding conductor shall be of copper or other metal that will not corrode excessively under the existing conditions. 1970, c. 79, s. 2, *part*.

Piping
system used
as ground

453.—(1) Ground connections to metallic water or air systems shall be made beyond any point liable to disconnection.

Idem

(2) Main water or air lines shall be substantially bonded together for this purpose, but shall, unless connected to a buried piping system of considerable extent that will provide a low-resistance ground, be connected to an artificial ground electrode. 1970, c. 79, s. 2, *part*.

Means of
attachment
to ground
electrode

454. The grounding conductor shall be connected to the grounding electrode by means of a substantial ground clamp or other equivalent means. 1970, c. 79, s. 2, *part*.

Artificial
electrodes

455.—(1) Artificial ground electrodes shall consist of driven pipes, rods, buried plates or other devices acceptable for the purpose.

Idem

(2) Electrodes of iron or steel pipe shall be not less than $\frac{3}{4}$ -inch internal diameter and shall be galvanized.

Idem

(3) Rod electrodes shall be not less than $\frac{5}{8}$ -inch in diameter if of iron or steel or $\frac{1}{2}$ -inch in diameter if of non-ferrous metal. 1970, c. 79, s. 2, *part*.

456. The grounding system shall be connected to the body of the earth, on the surface, through an earth-contact resistance acceptable to the district electrical-mechanical engineer. 1970, c. 79, s. 2, *part*. Resistance of electrodes

457. The earth-contact of the main grounding system and supplementary earth-contacts shall be provided with means to facilitate measurement of earth-contact resistances. 1970, c. 79, s. 2, *part*. Resistance measurement

WIRING METHODS

458. Conductors shall be suitable for the location, use and voltage of the circuit and shall have sufficient current-carrying capacity for the current they are required to carry. 1970, c. 79, s. 2, *part*. Types of conductors

459. Portable conductors supplying mobile equipment operating at more than 300 volts shall conform with the following specifications: Portable power conductors

1. The cable shall have a voltage rating not less than 50 per cent higher than the normal operating voltage of the circuit.
2. Cable of standard rating for the normal operating voltage may be used where the cable is supplied through a circuit-breaker from a circuit where the neutral point is grounded in such a manner as to,
 - i. limit ground fault current, and
 - ii. limit the possible rise of ground fault potential on any connected equipment to a maximum of 100 volts,

and where ground fault protection is provided.

3. All conductors including grounding conductors shall be contained in one flexible, jacketed cable assembly.
4. Where the cable contains both the power circuit and its remote control circuit, each circuit conductor shall be insulated, as required by paragraphs 1 and 2, for the highest potential employed in the cable, except that, where sheathing, as in paragraph 10, is provided, the control conductors need only be insulated for their normal operating voltage.
5. The minimum size of the power conductors shall be No. 12, A.W.G.
6. The cable shall contain as many grounding conductors as power conductors and the grounding conductors shall

be located in the outer interstices between the power conductors.

7. Remote control conductors contained in the cable need not be considered power conductors in determining the number of grounding conductors.
8. The grounding conductors contained in the cable shall be uninsulated and shall have a total conductance of not less than 60 per cent of the largest power conductor.
9. The minimum size of each grounding conductor shall be not less than No. 12, A.W.G.
10. Cables on circuits operating over 750 volts shall have a grounded sheathing, consisting of tinned copper wire mesh, or the equivalent, around each power conductor, and this sheathing shall be, throughout the length of each cable, in contact with the interstitial grounding conductors.
11. Where connectors are used to attach cables to mobile equipment, the cables shall be secured in such a manner as to prevent mechanical damage.
12. Portable cable used to supply equipment in underground workings shall have an outer jacket of a material that will not support combustion and shall be continuously identified as having such a jacket. 1970, c. 79, s. 2, *part*.

Guarding of live parts

460.—(1) All exposed current-carrying parts of electrical equipment, such as bus-bars, conductors and terminals, operating at over 150 volts, shall be,

- (a) armoured;
- (b) enclosed in a suitable raceway; or
- (c) isolated by elevation or guarded.

Open wiring

(2) Except in cases of emergency, open wiring shall not be used. 1970, c. 79, s. 2, *part*.

A.C. circuits in raceways

461. All conductors of an a.c. circuit shall be contained in the same raceway. 1970, c. 79, s. 2, *part*.

Conductors of different systems in raceways or armouring

462. Where conductors of different systems are installed in the same raceway or armouring, each conductor shall be insulated for the highest potential employed or, in the case of a raceway, separated by a suitable barrier. 1970, c. 79, s. 2, *part*.

463. Conductors of different systems shall not be installed in the same box, cabinet or auxiliary gutter unless effectively separated by barriers. 1970, c. 79, s. 2, *part*.

Conductors
of different
systems in
enclosures

464. Identifying barriers shall be provided between circuits where more than one set of single-pole, blade-type isolating switches are installed adjacent to each other. 1970, c. 79, s. 2, *part*.

Barriers

465. Metal-covered and insulated conductors in conduit, where joined to transformers, motors, switchgear and other electrical equipment, shall have their metal coverings secured to such equipment by clamps, locknuts or other devices to protect the insulated conductors from mechanical injury. 1970, c. 79, s. 2, *part*.

Connections
to
apparatus

PROTECTION AND CONTROL

466.—(1) The type and rating of protective and control devices shall be suitable for their use.

Type and
rating of
protective
and control
devices

(2) All protective and control devices installed outdoors shall be of a design suitable for their location. 1970, c. 79, s. 2, *part*.

Idem

467.—(1) Each ungrounded conductor shall be protected by an overcurrent device at the point where it receives its supply of current and at each point where the size of the conductor is decreased, except that such protection may be omitted,

Overcurrent
devices
required

- (a) where the branch circuit is not more than twenty-five feet in length;
- (b) where the protection for a larger conductor adequately protects a smaller; and
- (c) where the opening of the circuit may cause special hazard by the interruption of service or removal of protection.

(2) The rating or setting of the protective device shall not exceed the allowable current-carrying capacity of the circuit conductors except in the case of branch motor circuits where the rating or setting of the device may be increased sufficiently to take care of motor-starting currents.

Idem

(3) Unless the opening of the device disconnects all circuit conductors at the same time, no manually-operated or automatically-operated disconnecting device shall be placed in a neutral or grounded conductor. 1970, c. 79, s. 2, *part*.

Idem

Enclosure of
overcurrent
devices

468. Overcurrent devices shall be enclosed in cut-out boxes or cabinets unless they form a part of an approved assembly that affords equivalent protection or unless mounted on switchboards, panel-boards, or controllers located in rooms or enclosures free from easily ignitable material and dampness, and accessible only to authorized persons. 1970, c. 79, s. 2, *part*.

Control
devices,
general

469.—(1) Suitable control devices shall be inserted in all feeders and branch circuits.

Idem

(2) All control devices shall be readily and safely accessible to authorized persons and shall be so located, labelled or marked as to afford means of identifying circuits or equipment supplied through them and shall indicate whether they are open or closed. 1970, c. 79, s. 2, *part*.

Rating of
control
devices

470.—(1) Control devices shall have ratings suitable for the connected load of the circuits they control and, with the exception of isolating switches, shall be capable of interrupting such loads.

Grouping of
control
devices

(2) Control devices shall be grouped where practicable.

Location of
control
devices

(3) All control devices shall be so arranged that the operating mechanisms are readily accessible to the operator. 1970, c. 79, s. 2, *part*.

Enclosure of
control
devices

471.—(1) Control devices, unless they are located or guarded so as to render them inaccessible to unauthorized persons and to prevent fire hazards, shall have all current-carrying parts in enclosures of metal or other fire-resisting material.

Idem

(2) Manually-operable control devices shall be so constructed that they may be switched to the "off" position without exposing live parts.

Idem

(3) Manually-operable control devices shall clearly indicate the "on" and "off" positions. 1970, c. 79, s. 2, *part*.

Connection
of control
devices

472. Control devices shall, if practicable, be so connected that the blades or moving contacts will be dead when the device is in the open position. 1970, c. 79, s. 2, *part*.

Control
devices
ahead of
overcurrent
devices

473. Control devices used in combination with over-current devices or overload devices for the control of electrical equipment shall be connected so that the overcurrent or overload devices will be dead when the control device is in the open position. 1970, c. 79, s. 2, *part*.

Visible
break
requirement

474.—(1) Disconnecting means of the visible-break type shall be installed on all circuits operating at over 300 volts to ground and shall be as near as is practicable to the point of supply.

(2) Unless a control device on circuits over 300 volts makes a visible break, there shall be installed between the control device and its point of supply a suitable disconnecting switch. 1970, c. 79, s. 2, *part*. Idem

475.—(1) On each ungrounded utilization system over 300 volts, at least one suitable device shall be installed and maintained for the purpose of indicating ground faults. Ground fault detector requirement

(2) Such device shall be provided with, Idem

(a) short-circuit protection; and

(b) disconnecting means.

(3) When a ground fault is indicated, it shall be located and removed as soon as is practicable. 1970, c. 79, s. 2, *part*. Idem

476. Adequate illumination shall be provided to allow for proper operation of electrical equipment. 1970, c. 79, s. 2, *part*. Illumination of equipment

477. Where electrical equipment requires an attendant, there shall be provided a separate emergency source of illumination from an independent generator, storage battery or other suitable source. 1970, c. 79, s. 2, *part*. Emergency illumination of equipment

INSTALLATION OF EQUIPMENT

478. Adequate clear working space with secure footing shall be provided about all electrical equipment. 1970, c. 79, s. 2, *part*. Working space

TRANSFORMERS

479. Transformers shall be of a type and design suitable for the location in which they are to be installed. 1970, c. 79, s. 2, *part*. General

480. Each transformer shall be provided with a nameplate bearing the following markings: Nameplate required for transformers

1. Maker's name.
2. Rating in kva.
3. Rated full load temperature rise.
4. Primary and secondary voltage ratings.
5. Frequency in cycles per second.
6. Liquid capacity, if of the liquid-filled type.
7. Type of liquid to be used, if it is to be filled with an approved liquid that will not burn in air.

8. Percentage impedance voltage, if of the power or distribution type. 1970, c. 79, s. 2, *part*.

Isolation
and
guarding
of trans-
formers

481. Transformers having a voltage rating in excess of 750 volts and all transformers having exposed terminals, including their conductors and control and protective devices, shall be accessible only to authorized persons and, unless isolated by elevation, they shall be surrounded by an enclosure that, if of metal, shall be grounded, and suitable warning signs indicating the highest potential employed shall be conspicuously posted. 1970, c. 79, s. 2, *part*.

Special
trans-
formers

482.—(1) Dry-core type transformers with Class A insulation, if installed within a building not of fire-resistive construction, shall be in a fire-resistive enclosure.

Idem

(2) Transformers containing an approved liquid that will not burn in air and transformers of the dry-core type with Class B or Class C insulation may be installed within or attached to the wall of a building not of fire-resistive construction, if they are surrounded by a suitable enclosure to prevent mechanical injury and access by unauthorized persons. 1970, c. 79, s. 2, *part*.

Liquid-
filled trans-
formers

483.—(1) Oil-filled transformers installed outdoors shall be located not less than fifty feet distant from the shafthouse or any combustible building attached thereto, and means shall be provided to contain escaping oil or to direct the flow away from such buildings.

Idem

(2) Oil-filled transformers shall not be mounted on or above combustible roofs and, if attached to the exterior of a building other than a transformer-house, shall be placed only against non-combustible walls and away from all openings.

Idem

(3) Transformer buildings containing oil-filled transformers, if not entirely of fire-resistive construction, shall be located at least fifty feet distant from any other combustible building.

Idem

(4) Oil-filled transformers, if within a building other than a transformer-house, shall be in a vault.

Idem

(5) Transformers having their cores immersed in a liquid that will not burn in air may be installed without a vault if,

- (a) the transformer is protected from mechanical damage either by location or guarding;
- (b) a pressure relief vent is provided where the rating exceeds 25 kva at 25 cycles or $37\frac{1}{2}$ kva at 60 cycles; and
- (c) a means of absorbing gases generated by arcing inside the case, or a pressure relief vent connected to outdoors,

is provided where the transformer is installed in a poorly-ventilated section. 1970, c. 79, s. 2, *part*.

484.—(1) When primaries are above 750 volts, secondary circuits of current and potential transformers, unless otherwise adequately protected from injury or contact with persons, shall be in permanently-grounded conduit or armour. Instrument transformers

(2) Secondary circuits of current transformers shall be provided with means for short-circuiting them that can be readily connected while the primary is energized and that are so arranged as to permit the removal of any instrument or other device from the circuits without opening the circuits. 1970, c. 79, s. 2, *part*. Idem

485. Each transformer or each bank of transformers operating as a unit shall have overcurrent protection. 1970, c. 79, s. 2, *part*. Overcurrent protection for transformers

486.—(1) Control and protection devices, complying with one of the following, shall be installed for all power and distribution transformers: Control and protection requirements

- (a) Circuit-breakers of adequate interrupting capacity and rating.
- (b) Fuses of adequate rating and interrupting capacity preceded by suitable group-operated visible-break load-interrupting devices capable of making and interrupting their full load rating and that may be closed with safety to the operator with a fault on the system.
- (c) Fuses of adequate rating and interrupting capacity preceded by a group-operated visible-break air-break switch capable of interrupting the magnetizing current of the transformer installation and that may be closed with safety to the operator with a fault on the system and so interlocked with the transformer secondary load interrupters as to prevent its operation under load.

(2) Where the transformer rating does not exceed 100 kva per phase and the potential between phases does not exceed 7,500 volts, a single-pole disconnecting fuse of adequate interrupting capacity may be used on the primary. 1970, c. 79, s. 2, *part*. Idem

SWITCHBOARDS AND SWITCHGEAR

487. Panels of switchboards shall be of incombustible material and shall be substantially supported on a metal framework. 1970, c. 79, s. 2, *part*. General

488. Adequate illumination shall be provided for reading instruments and other operations. 1970, c. 79, s. 2, *part*. Illumination of switchboards

Location of
switchgear

489. Switchgear, if not of the dead-front or enclosed type, and live parts on the rear of dead-front switchboards shall be inaccessible to unauthorized persons. 1970, c. 79, s. 2, *part*.

Clearance
back of
switchboard

490.—(1) There shall be a space of not less than three feet between equipment on the back of a fixed switchboard and the nearest adjacent wall when such equipment is less than seven feet from the floor.

Ingress and
egress

(2) Ready means for ingress and egress to the space behind the switchboard shall be provided.

Doors, etc.

(3) Doors or gates of suitable material may be provided at such points of ingress and egress for guarding-purposes but they shall be capable of being readily opened from the inside without the use of a key or tool.

Space to be
kept clear

(4) The space behind the switchboard shall be kept clear of foreign material and shall not be used for storage purposes. 1970, c. 79, s. 2, *part*.

TRANSMISSION LINES

General

491. All electrical supply lines and equipment shall be of suitable design and construction for the service and the conditions under which they are to be operated, and all lines shall be so installed and maintained as to reduce fire hazard and injury to persons as far as is practicable. 1970, c. 79, s. 2, *part*.

Isolation
and
guarding

492. Conductors and other current-carrying parts of supply lines shall be so arranged as to provide adequate clearance from the ground or other space generally accessible or shall be provided with guards so as to isolate them effectively from accidental contact of persons. 1970, c. 79, s. 2, *part*.

Entrance to
buildings

493. Where conductors over 300 volts are attached to any building for entrance, they shall be isolated by elevation or guarded. 1970, c. 79, s. 2, *part*.

Clearance
over
railways

494.—(1) Supply lines carried over railways operated by steam, electric or other motive power and on which standard equipment, such as freight cars, is used, shall have the style of construction and the clearances overhead as called for in the Uniform Code of Operating Rules prescribed by the Canadian Transport Commission.

Idem

(2) Supply lines crossing over railways on which standard equipment is not used and lines crossing over roadways shall have ample clearance for the operating conditions and shall be substantially supported. 1970, c. 79, s. 2, *part*.

STORAGE BATTERIES

495. Storage batteries shall be kept in inaccessible battttery rooms or enclosures used for no other purpose where, Location of storage batteries

- (a) the aggregate capacity at the eight-hour discharge rate exceeds five kilowatt hours; and
- (b) the batteries are in open jars or tanks. 1970, c. 79, s. 2, *part.*

496.—(1) Storage battery rooms shall be thoroughly ven- Ventilation of battery rooms
tilated.

(2) Adequate means shall be provided for sufficient diffusion Idem
and ventilation of the gases from the battery to prevent the
accumulation of an explosive mixture. 1970, c. 79, s. 2, *part.*

LIGHTNING ARRESTERS

497. Where lightning arresters are installed in a building, Indoor installation of lightning arresters
they shall be located well away from all equipment, other than
that which they protect, and from passageways and combustible
parts of buildings. 1970, c. 79, s. 2, *part.*

498. Lightning arresters installed for the protection of utiliza- Location of lightning arresters
tion equipment,

- (a) may be installed either inside or outside the building or enclosure containing the equipment to be protected; and
- (b) shall be isolated by elevation or guarded. 1970, c. 79, s. 2, *part.*

499.—(1) All non-current-carrying parts of lightning arrest- Grounding
ers shall be grounded, unless effectively isolated by elevation or
guarded as required for live parts of the voltage of the circuit to
which the arrester is connected.

(2) Grounding conductors for lightning arresters on power Idem
transmission systems shall be run as directly as possible and be of
low resistance and ample capacity.

(3) In no case shall such grounding conductors be less than No. Idem
6 copper wire, nor shall such grounding conductors pass through
metal conduits unless electrically connected to both ends of the
conduits. 1970, c. 79, s. 2, *part.*

MOTORS

500. All motors shall be provided with approved starting and Control required
control equipment. 1970, c. 79, s. 2, *part.*

501. Where it is desired to interlock one motor control circuit Interlocking motor circuits
with a second motor controller,

- (a) the supply or control conductors of one motor branch circuit shall not be run through or connected into the enclosure of a second motor controller unless such conductor or conductors are opened and de-energized by the disconnecting means of the second motor branch circuit; or
- (b) a suitable relay may be interposed between the two controllers and located externally to both controllers. 1970, c. 79, s. 2, *part*.

Visible-break
requirement

502. In all cases, the motor-circuit switch, general-use switch or isolating switch shall be of the visible-break type. 1970, c. 79, s. 2, *part*.

Discon-
necting
means
required

503. Every motor and its starting and control equipment shall be provided with a disconnecting means which will open all ungrounded conductors to the motor and which conforms to one of the following:

1. An approved attachment plug and receptacle may serve as disconnecting means for a portable motor.
2. An isolating switch or a general use switch may be used as a disconnecting means for motors of more than 50 horsepower.
3. In all other cases the disconnecting means shall consist of a motor circuit switch, a circuit breaker, or equivalent approved device capable of safely establishing and interrupting the stalled rotor current of the motor. 1970, c. 79, s. 2, *part*.

Rating of
discon-
necting
means

504. The disconnecting means shall have a rating not less than the following:

1. A motor circuit switch for a single motor shall have a horsepower rating not less than that of the motor it serves.
2. A circuit breaker or isolating switch for a single motor shall have a current rating not less than 115 per cent of the full load current rating of the motor it serves.
3. A fused motor circuit switch serving a group of motors under the protection of a single set of fuses need not have a rating greater than that required to accommodate the proper size of fuse.
4. An unfused motor circuit switch serving a group of motors under the protection of a single set of fuses need not have a rating greater than that required if a fused switch were used.

5. A disconnecting means serving a group of motors on a single circuit shall have,
 - (i.) a horsepower rating not less than that of the largest motor in the group, if a motor circuit switch is used, and
 - (ii.) a current rating not less than 115 per cent of the full load current rating of the largest motor in the group plus the sum of the full load current ratings of all the other motors in the group which may be in operation at the same time. 1970, c. 79, s. 2, *part*.

505. Motors shall be disconnected from the source of supply in case of low voltage by one of the following means unless it is evident that no hazard will be incurred through the lack of such disconnection: Under-voltage protection required

1. Where automatic restarting is liable to create a hazard, the motor control device shall provide low-voltage protection.
2. Where it is necessary or desirable that a motor stop on failure or reduction of voltage and automatically restart on return of voltage, the motor control device shall provide low-voltage release. 1970, c. 79, s. 2, *part*.

506. Each motor shall be suitably protected against continuous overload. 1970, c. 79, s. 2, *part*. Overload protection required

CRANES, SHOVELS AND OTHER SIMILAR MACHINERY

507.—(1) Crane collector wires shall be isolated by elevation and, where necessary, Guarding and isolation

(2) Suitable means that will disconnect all ungrounded conductors of the circuit supplying a crane, as defined in subsection 1 of section 257, shall be, Disconnecting means

- (a) provided within sight of the main contact conductors or within sight of the equipment if there are no main contact conductors; and
- (b) accessible and operable from the ground or the floor over which the equipment operates;
- (c) a circuit breaker or switch, capable of interrupting the circuit under heavy loads, shall be installed in the cab unless the current collector can be safely removed, under heavy loads, from the crane collector wires.

(3) A circuit-breaker or switch, capable of interrupting the circuit under heavy loads, shall be installed in the cab unless the current collector can be safely removed, under heavy loads, from the crane collector wires. 1970, c. 79, s. 2, *part*. Switch required in cab

Protection
from
overhead
lines

508. Where it is necessary to operate shovels or other similar machinery having a mast or movable boom near exposed electrical conductors, a clearance equal to not less than one-half the maximum horizontal reach of the machine shall be maintained unless,

- (a) the conductors are disconnected from the electrical supply and permission to work on the conductors has been authorized; or
- (b) the conductors are first given adequate mechanical protection by the electrical authority involved, to prevent contact by the machine, its attachments or load; or
- (c) the work involves the conductors and is being carried out by a qualified person using a machine with an insulated boom designed, built and tested for use on electrical potentials at least as high as that of the conductors involved; or
- (d) special permission has been obtained from the district electrical-mechanical engineer and under such conditions and precautions as he may require. 1970, c. 79, s. 2, *part*.

TROLLEY WIRES

Guarding
and
isolation

509. Trolley lines shall be isolated by elevation and, where necessary, guarded. 1970, c. 79, s. 2, *part*.

Require-
ments for
trolley lines
under-
ground

510. In underground workings, trolley lines shall,

- (a) be isolated by an elevation of not less than six feet;
- (b) operate at a potential not exceeding 300 volts to ground;
- (c) be effectively guarded. 1970, c. 79, s. 2, *part*.

LIGHTING

Maximum
operating
voltage

511. The operating voltage of a lighting circuit shall not exceed 300 volts and the voltage to ground of a conductor shall not exceed 150 volts, but this section does not apply in the case of electric locomotives and cranes using direct current. 1970, c. 79, s. 2, *part*.

Neutral
identifica-
tion

512. The neutral conductor on lighting circuits shall be identified by a white braid covering or other equivalent means. 1970, c. 79, s. 2, *part*.

Portable
hand lamps

513. Portable lamps shall have their sockets enclosed in suitably-insulated handles through which the conductors shall be carried and shall have a protective cage that encloses the lamp. 1970, c. 79, s. 2, *part*.

WIRING IN EXPLOSIVES AND BLASTING AGENTS
STORAGES

514. All electrical wiring in explosives or blasting agents magazines, thaw houses, detonator or blasting cap storage buildings, or cap and fuse houses, shall be installed in rigid conduit with screwed water-tight joints or shall be armoured, moisture-proof cable. 1970, c. 79, s. 2, *part*. General

515. All conduit, armour, fittings and fixtures shall be permanently grounded. 1970, c. 79, s. 2, *part*. Grounding

516. The switches and fuses for lighting, heating or telephone circuits for explosives or blasting agents magazines, thaw houses, detonator or blasting cap storage buildings and cap and fuse houses shall be in a fire-resistive cabinet located outside the compartment in which explosives, blasting agents, fuses or detonators, or blasting caps, are stored. 1970, c. 79, s. 2, *part*. Location of control and protection

517. Lighting fixtures shall be of an approved dust-tight type. 1970, c. 79, s. 2, *part*. Type of lighting fixtures required

518. Lighting circuits shall be protected by fuses or manual reset overcurrent devices rated at not more than 10 amperes. 1970, c. 79, s. 2, *part*. Overcurrent protection for lighting circuits

519. Circuits supplying power to explosives or blasting agents storages shall be protected against lightning surges. 1970, c. 79, s. 2, *part*. Lightning protection

520. Heating systems for explosives or blasting agent storages or cap and fuse houses shall be of a type acceptable to the district electrical-mechanical engineer. 1970, c. 79, s. 2, *part*. Type of heating required

521. Where a liquid is the medium used for distribution of heat for an explosive or blasting agent storage or a cap and fuse house, the radiators shall be grounded. 1970, c. 79, s. 2, *part*. Radiators to be grounded

522. Heater circuits shall be fused at not more than 125 per cent of normal current. 1970, c. 79, s. 2, *part*. Fusing of heater circuits

ELECTRIC BLASTING DEVICES

523. The firing device used for firing charges with electricity in accordance with subsection 7 of section 318 shall be so arranged that, Construction

- (a) the switch mechanism will automatically return by gravity to the open position;
- (b) the live side of such device is installed in a fixed locked box and is accessible only to the authorized blaster;

- (c) provision is made that the leads to the face are short-circuited when the contacts of the electric blasting device are in the open position;
- (d) the box in which the electric blasting device and the short-circuiting device are mounted is provided with a lock and the door is so arranged that it cannot be closed or locked unless the contacts of the electric blasting device are open and the short-circuiting device is in place;
- (e) where electricity from 550-volt circuits is used for blasting, the device is electromagnetically operated, except as provided in subsection 7 of section 318. 1970, c. 79, s. 2, *part, amended*.

Precautions
re installa-
tion of
blasting
cables

524. When blasting cables or wires are installed in the vicinity of power or lighting cables, proper precautions shall be taken to prevent the blasting cables or wires coming in contact with the lighting or power cables. 1970, c. 79, s. 2, *part*.

Isolated,
ungrounded
power
source

525. Circuits used for blasting from any source other than hand-held portable blasting devices shall be from an isolated, ungrounded power source and shall be used for blasting only. 1970, c. 79, s. 2, *part*.

ELECTRIC HOISTS

General

526. Sections 527 to 552 apply to all electric hoists regardless of the method of operation. 1970, c. 79, s. 2, *part*.

Braking

527.—(1) For each electric hoist, protective devices shall be provided, which, in conjunction with the mechanical braking system, shall be capable of bringing a conveyance or counterbalance safely to rest under all conditions of authorized loading, direction of travel and speed without assistance from the drive.

Idem

(2) Where supplementary electrical braking is employed, at least the same degree of safety shall be supplied. 1970, c. 79, s. 2, *part*.

Safety
requirement

528. Except where otherwise specified, current-carrying parts of any safety device shall be so designed, installed and maintained that the failure of any such part will initiate emergency braking action to bring the hoist safely to rest. 1970, c. 79, s. 2, *part*.

Track limits
required
for
overwind
protection

529. Devices shall be installed in each hoisting compartment that, in the event of an overwound conveyance or counterbalance, shall be operated directly by the conveyance or counterbalance to initiate an emergency stop and bring the conveyance or counter-

balance to rest safely before it or its rope attachments reach any obstruction to its free passage. 1970, c. 79, s. 2, *part*.

530. Devices shall be installed for each hoisting compartment that, in the event of an underwound conveyance or counterbalance, shall initiate an emergency stop and bring the conveyance or counterbalance to rest safely before it or its rope attachments reach any obstruction to its free passage, except that, in the case of shaft sinking the protection for an underwound conveyance or counterbalance may be dispensed with. 1970, c. 79, s. 2, *part*. Underwind protection required

531. Devices, driven from the operating drum or drums, shall be installed, where the hoist operates at a rope speed of 750 feet per minute or greater, that, in the event of an overwound or underwound conveyance or counterbalance, will initiate an emergency stop and bring the conveyance or counterbalance to rest safely before it or its rope attachments meet any obstruction to its free passage, except that, in the case of shaft sinking the protection for an underwound conveyance or counterbalance may be dispensed with. 1970, c. 79, s. 2, *part*. Overwind and underwind requirements for high-speed hoists

532. Each electric hoist shall have installed a device that will initiate an emergency stop and bring the conveyance or counterbalance to rest safely should the rope speed exceed the authorized maximum by a predetermined amount. 1970, c. 79, s. 2, *part*. Overspeed

533. Devices, driven from the operating drum or drums, shall be installed where the hoist operates at a rope speed of 750 feet per minute or greater, that will enforce any necessary reduction in speed as the conveyance approaches the end of travel. 1970, c. 79, s. 2, *part*. Enforced slowdown

534. No person shall alter the adjustment of any protective device without proper authority. 1970, c. 79, s. 2, *part*. Adjustment of protection devices

535.—(1) Where ore or waste dumps, loading boxes or spill-doors are installed in a shaft or winze at points other than the upper and lower limits of normal travel of a conveyance and where any part of such dump box or door interferes with the free passage of a conveyance, there shall be installed, Inter-mediate obstructions

- (a) travel-limiting devices;
- (b) travel-limiting devices as required by section 531, where applicable;
- (c) enforced slow-down devices as required by section 533, where applicable; and
- (d) positive locking devices for maintaining such obstructions out of the operating position in the shaft or winze.

Idem

(2) The manager, or his agent, of a mine employing such an intermediate obstruction shall provide a procedure to be followed to ensure the safe operation of the installation.

Idem

(3) Before such an installation is made, plans and procedure shall be submitted to the chief engineer for approval. 1970, c. 79, s. 2, *part*.

Protection
required for
hoist
electrical
system

536. Emergency braking action shall be initiated to bring a conveyance or counterbalance to rest safely before it or its rope attachments reach any obstruction to its free passage in the event of,

- (a) the failure of the power supply to the hoist electric system;
- (b) an overload on the hoist-drive motors of a magnitude and duration exceeding what would be considered an operating overload; or
- (c) a short-circuit on the hoist electric system. 1970, c. 79, s. 2, *part*.

Backout

537.—(1) Every electric hoist shall have installed a device to enable a conveyance or counterbalance to be removed from an overwound or underwound position.

Idem

(2) Every such device shall be manually operable only.

Backout
switch,
motor
torque-
brake
interlock

(3) Every such device shall be so designed and installed that the brake or brakes holding a conveyance or counterbalance, when in an overwound or underwound position, cannot be released until sufficient drive motor torque has been developed to ensure movement of the conveyance or counterbalance in the correct direction only. 1970, c. 79, s. 2, *part*.

Emergency
switch

538. A manually-operable switch shall be installed for each electric hoist within reach of the manual controls that will, when operated, initiate emergency braking action to bring the conveyance or counterbalance safely to rest. 1970, c. 79, s. 2, *part*.

Underwind
by-pass
switch

539. An underwind by-pass switch may be installed, where necessary, that will allow the conveyance to be lowered through the underwind position if it is held in the closed position by the hoistman and will return automatically to the open position when not so held. 1970, c. 79, s. 2, *part*.

Load meter
required

540. Each electric hoist shall have installed, within plain view of the manual controls, a meter that will indicate, at all times, the hoist motor load. 1970, c. 79, s. 2, *part*.

Man-safety
require-
ments

541.—(1) Where men are transported in skips or the skips of skip-cage assemblies, there shall be installed a device that will

prevent the conveyance, carrying the men, from entering the dumping position.

(2) Except in shaft sinking, such device shall be so installed Idem that, when it is put into operation, a distinctive signal will be given, automatically, to men about to enter the conveyance.

(3) Such device is not required on electric hoists where men are hoisted for shaft inspection or maintenance operations only. Idem

(4) Such device shall be put into operation, either manually or automatically, when men are transported. Idem

(5) In those cases where the device is automatically put into operation by the hoistman's return of the 3-bell signal, the circuit shall be so arranged that the failure of the relay coils will not render the device inoperative. 1970, c. 79, s. 2, *part*. Idem

542. Each electric hoist shall have installed a device whereby the hoistman is warned, audibly, that a conveyance or counter-balance is about to enter the region where a reduction in speed is necessary for safe manual braking. 1970, c. 79, s. 2, *part*. Approach warning signal

543. Sections 544 to 552 apply to all electric hoists that may be operated automatically. 1970, c. 79, s. 2, *part*. Automatic hoists

544.—(1) Every electric hoist shall have installed, only in the same location as the manual controls, a device for the change-over from manual to automatic control. Selection of manual or automatic control

(2) Such device shall be operated by authorized personnel only. 1970, c. 79, s. 2, *part*. Idem

545. Where an electric hoist is designed to be operated from control stations on the levels or from a control station on the conveyance, any device used to effect the change-over of control shall be operable only at the level at which a conveyance is stopped. 1970, c. 79, s. 2, *part*. Level or cage control

546.—(1) Devices installed on the levels for the purpose of selecting the conveyance's destination and for initiating hoist motion shall be operable only when the conveyance is stopped at that level, except where the installation has been approved for call operation. Operation of level-installed controls

(2) There shall be a minimum delay of five seconds between the operation of the level control device used to initiate hoist motion and the actual motion when men are being handled. Idem

(3) The level control device used to initiate hoist motion shall be so located that it may be operated by someone in the conveyance stopped at that level. Idem

Idem

(4) Devices installed on the levels for the purpose of initiating hoist motion shall, except for jogging, be operable only when the shaft gate at the level at which the conveyance is stopped is in the closed position. 1970, c. 79, s. 2, *part*.

Operation
of cage-
installed
control

547.—(1) Devices installed in a conveyance for the purpose of controlling hoist motion shall, except for jogging, be operable only when the cage door is in the closed position.

Idem

(2) Where devices are installed in a conveyance for the purpose of controlling hoist motion, one of the devices shall be capable of initiating emergency braking action to bring the conveyance safely to rest. 1970, c. 79, s. 2, *part*.

Friction
hoists

548. Sections 549 to 552 apply to all electric friction hoists. 1970, c. 79, s. 2, *part*.

Jammed
conveyance
device

549. Each electric friction hoist shall have installed a device that will initiate emergency braking action to bring the drum to rest in the event of the occurrence of slip between the hoisting rope or ropes and the hoist drum, such as might occur with a conveyance or counterbalance jammed in the shaft or caught at the end of travel. 1970, c. 79, s. 2, *part*.

Synchroniz-
ing device

550. Where creep or slip may alter the effective position of safety devices, a means of synchronizing the safety devices with the position of the conveyance in the shaft shall be provided. 1970, c. 79, s. 2, *part*.

Special
testing

551. If the district electrical-mechanical engineer deems it necessary, he may, after consultation with the manager, conduct or require to be conducted specific tests of the efficiency of all electric overwind and underwind devices, signalling and warning devices and hoisting controls and equipment. 1970, c. 79, s. 2, *part*.

Electrical
Hoisting
Equipment
Record
Book

552.—(1) The manager of a mine where an electric hoist is in use shall depute some competent person or persons whose duty it is to examine at least once in each week the hoist motor and control apparatus, electric safety devices and hoisting signalling equipment.

Idem

(2) The report of such examination shall be recorded as provided in subsection 3.

Idem

(3) The manager shall keep or cause to be kept at the mine for each hoist a book called the Electrical Hoisting Equipment Record Book in which shall be recorded a report of every such examination and a notation of any failure or accident to such equipment and the action taken regarding it, signed by the person making the examination.

(4) Such entries of the weekly examination shall be read and signed every week by the person in charge of such equipment or accessories thereto. Idem

(5) A notation of the action taken regarding the report of any failure or accident to any part of the electrical equipment used in connection with the hoist or the signalling equipment shall be made over the signature of the person in charge of such equipment or accessories thereto. Idem

(6) The Electrical Hoisting Equipment Record Book shall be made available to the district electrical-mechanical engineer at all times. 1970, c. 79, s. 2, *part*. Idem

UNDERGROUND ELECTRICAL INSTALLATIONS

553. The provisions of this Part that apply to surface electrical installations apply equally to underground electrical installations, except sections 554 to 571, which apply only to underground electrical installations. 1970, c. 79, s. 2, *part*. General

554.—(1) Where electrical energy is taken underground, provision shall be made so that the current may be cut off on the surface. Control of underground feeders

(2) The control device shall be accessible to authorized persons only. 1970, c. 79, s. 2, *part*. Idem

555.—(1) Conductors for all circuits not over 150 volts to ground shall either be installed in standard conduits, armoured or have non-flammable jackets and be adequately supported. Wiring methods

(2) All fixed conductors transmitting power underground at over 150 volts to ground shall be installed in standard conduits or armoured, shall be adequately supported, and any outer jacketing shall be of a non-flammable type. Idem

(3) Open-type wiring shall not be used except in cases of emergency. 1970, c. 79, s. 2, *part*. Idem

556. All new cables purchased for the transmission of power underground at a potential in excess of 750 volts shall be accompanied by the manufacturer's certified report of insulation tests, a copy of which shall be filed with the chief engineer. 1970, c. 79, s. 2, *part*. Cable test required

557.—(1) All cables transmitting power underground at a potential exceeding 750 volts shall have a voltage rating of 50 per cent higher than the normal operating voltage. Cable rating

(2) Cable of standard rating for the normal operating voltage may be used where the cable is supplied through a circuit-breaker Idem

from a circuit where the neutral point is grounded in such a manner as to,

- (a) limit ground fault current; and
- (b) limit the possible rise of ground fault potential on any connected equipment to a maximum of 100 volts,

and where ground fault protection is provided. 1970, c. 79, s. 2, *part*.

Bonding re-
quirements

558. The armouring or casings of all cables shall be bonded together so as to be electrically continuous and shall be connected at some point or points to a satisfactory ground on surface. 1970, c. 79, s. 2, *part*.

Adequate
grounding
for equip-
ment

559. Where the armouring or casings of cables do not provide an adequate grounding system for underground electrical equipment, a copper or other non-corrosive grounding conductor of adequate size shall be run from such equipment to a satisfactory ground on surface. 1970, c. 79, s. 2, *part*.

Terminating
facilities

560. Suitable terminating facilities shall be provided to protect cables from harm due to moisture or mechanical damage. 1970, c. 79, s. 2, *part*.

Location of
junction
boxes

561. Junction boxes on a cable transmitting power at a potential exceeding 300 volts shall not be located in a shaft or winze or attached to any timbers at a shaft or winze station or headframe. 1970, c. 79, s. 2, *part*.

Approval
of splices

562. Splices shall not be made in shaft or winze conductors unless approved by the district electrical-mechanical engineer. 1970, c. 79, s. 2, *part*.

Protection
of signal
and
telephone
cables

563. Adequate precautions shall be taken to prevent signal and telephone cables from coming into contact with other electric systems. 1970, c. 79, s. 2, *part*.

Maximum
voltage
of signal
system

564. The operating voltage on signal systems shall not exceed 150 volts to ground. 1970, c. 79, s. 2, *part*.

Grounding
of signal
system

565.—(1) One conductor of the two-wire signal circuit shall be grounded where the power supply is obtained from a transformer having a primary voltage in excess of 750 volts.

Idem

(2) The signal system may be operated with both conductors ungrounded when the supply is from a transformer having a primary voltage in excess of 750 volts, if an insulating transformer

having a 1-to-1 ratio is installed between the supply and the signal system. 1970, c. 79, s. 2, *part.*

566. Where an electrical hoisting-signal system is installed at a shaft or winze, there shall be a suitable, separate, audible signal system for the control of each hoisting conveyance operated from a single hoist and there shall be a sufficient difference in the sound of the signals to the hoistman that they are easily distinguishable and it shall be so arranged that the hoistman can return the signal to the person giving the signal. 1970, c. 79, s. 2, *part.*

Separate
signal
for each
conveyance

567. The type and location of transformers installed underground are subject to the approval of the district electrical-mechanical engineer. 1970, c. 79, s. 2, *part.*

Trans-
formers,
type and
location

568.—(1) All transformers over 2 kva, unless insulated with non-flammable di-electric liquids or Class B or Class C insulation, when installed underground, shall be effectively isolated from the mine workings by enclosure in rooms constructed of fire-resistive materials throughout and a door sill of not less than six inches in height shall be provided.

Trans-
formers and
trans-
former
rooms

(2) No material or equipment of any kind, including air lines, air ducts, water and steam lines, shall pass through or terminate within the room, other than that essential to the transformer installation for its proper operation and safety.

Idem

(3) The covers of the ventilation openings shall be held open by thermal fuse links and shall close by gravity, and the door shall be constructed of steel or other suitable material.

Idem

(4) No installation of transformers containing a liquid which will burn in air shall be located within 200 feet of an explosives or blasting agents storage.

Idem

(5) For installations of transformers containing a liquid which will not burn in air or other suitable types, separation shall be not less than 50 feet from an explosives or blasting agents storage. 1970, c. 79, s. 2, *part.*

Idem

569.—(1) The supports for electric motors, transformers, control and protective equipment and other electric equipment and the compartments in which they are installed shall be of such material and constructed in such a manner as to reduce the fire hazard to a minimum.

Fire
prevention
under-
ground

(2) No flammable material shall be stored or placed in the same compartment with any such equipment. 1970, c. 79, s. 2, *part.*

Idem

570. Where lamps or heating units are used underground,

Electric
heaters

they shall be so installed and protected as to prevent the heat generated from becoming a fire hazard. 1970, c. 79, s. 2, *part*.

Fire-extinguishing devices

571.—(1) Approved fire-extinguishing devices for use on electrical fires shall be provided and maintained in condition for immediate use.

Idem

(2) They shall be conveniently mounted at or in every place containing electrical equipment having flammable insulation or parts that, once ignited, may support combustion. 1970, c. 79, s. 2, *part*.

ELEVATORS

Interpretation

572.—(1) In this section,

- (a) “attendant” means a person who, as a whole or a part of his normal duties,
 - (i) operates an elevator or incline lift, or
 - (ii) supervises the loading, passage or unloading of persons on an incline lift;
- (b) “dumbwaiter” means a hoisting and lowering mechanism equipped with a conveyance which moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet, whose total inside height whether or not provided with fixed or removable shelves does not exceed four feet, the capacity of which does not exceed 500 pounds, and which is used exclusively for carrying materials;
- (c) “elevating device” means an elevator, escalator, dumbwaiter, incline lift or manlift and includes its hoistway enclosure;
- (d) “elevator” means a mechanism affixed to a building or structure equipped with a conveyance or platform that moves in guides at an angle exceeding 70 degrees from the horizontal and that is used to lift or lower persons or freight in or about the building or structure;
- (e) “escalator” means a power-driven inclined continuous stairway used for raising or lowering persons;
- (f) “freight elevator” means an elevator primarily used for carrying freight and on which only the attendant and the persons necessary for unloading and loading the freight are permitted to ride;
- (g) “incline lift” means a mechanism having a power-driven rope, belt or chain, with or without handholds or seats, for lifting or lowering persons or freight on an incline of 70 degrees or less from the horizontal;

- (h) "manlift" means a device consisting of a power-driven endless belt provided with steps or platforms and handholds attached to it for the transportation of persons from floor to floor;
- (i) "passenger elevator" means an elevator used primarily to carry persons.

(2) Elevating devices, except those covered in subsection 3, shall be designed, installed and maintained in accordance with the edition that is current from time to time of C.S.A. Standard B44, "Safety Code for Elevators, Dumb-waiters and Escalators". Accepted standards

(3) Aerial tramways, incline lifts and manlifts shall be of a type approved by the chief engineer. Idem

(4) This section does not apply to, Where section does not apply

- (a) feeding machines, or belt, bucket, scoop, roller or any similar type of freight conveyor;

- (b) a lifting device that is,
 - (i) part of a conveyor system,
 - (ii) mechanically loaded and unloaded, and
 - (iii) so fenced in or guarded as to prevent persons from accidentally entering the hoistway;

- (c) freight ramps having a means of adjusting the slope of the ramp;

- (d) freight platforms having a rise of sixty inches or less;

- (e) lubrication hoists or other similar mechanisms;

- (f) piling or stacking machines used within one storey; or

- (g) a moving walk.

(5) No person shall commence a new installation or a major alteration of an elevator, dumbwaiter, escalator, manlift or incline lift until the drawings and specifications thereof have been approved by the chief engineer. New installations, etc.

(6) The drawings and specifications shall be submitted in duplicate and shall furnish full information as to the size, composition and arrangement of the proposed installation or major alteration. Drawings and specifications

(7) Upon completion of an installation or major alteration, the elevating device shall not be put into use until it has been inspected and approved by the district electrical-mechanical engineer. Inspection and approval

(8) There shall be kept, securely fastened and conspicuously displayed, Notices required

- (a) in the conveyance of each elevator, dumb-waiter or incline lift; and

(b) as close as is practicable to the bottom landing of each manlift,

a notice, in the form of a metal plate, setting forth the maximum capacity of the elevating device, stating the number of persons and the weight in pounds.

Idem (9) Every freight elevator shall have displayed in a conspicuous place in the conveyance a notice in letters not less than one inch high:

"This is not a passenger elevator. No person other than the attendant and freight handlers are permitted to ride in this conveyance".

Ceilings (10) The ceiling and its supporting structure over every passageway or other occupied space under an elevating device shall be designed, constructed and maintained so as to safely support the loads that would be applied to it if the conveyance and counterweight dropped.

Idem (11) Where the conveyance and counterweight are both equipped with devices to stop them or arrest their descent in the event of a failure of their supports, the strength of the ceiling and its supporting structure may be reduced accordingly.

Machine rooms (12) There shall be provided safe and convenient access to every machine room and machinery space.

Idem (13) Except where otherwise permitted by the chief engineer, such access shall be by a stairway that is not located in the hoistway.

Idem (14) Every machine room and machinery space shall be enclosed or located so that unauthorized persons cannot have access to the machine room or machinery space.

Idem (15) Only machinery and control equipment required for the operation of the elevating device shall be permitted in the machine room.

Idem (16) Sprinklers, pipes, drains, tanks or similar equipment which might leak or cause condensation shall not be located directly above the machine or control equipment.

Attendants (17) No person under the age of eighteen years shall be authorized to operate an elevator.

Idem (18) Subject to subsection 19, an attendant is required for every elevator or incline lift.

Idem (19) An attendant is not required on an elevator or incline lift equipped with automatic controls and emergency stopping devices that will, in the opinion of the chief engineer, ensure the

safety of any person having access to or riding on the elevator or incline lift.

(20) Every landing shall be adequately lighted.

Lighting
required
Test and
repair

(21) No person shall remove, displace, interfere with or damage any device installed in or about an elevating device for its safe operation, except,

- (a) a district electrical-mechanical engineer making an inspection, or
- (b) a qualified person for the purpose of making a test or repair.

(22) Where a safety device has been removed, displaced, interfered with or damaged, the elevating device shall not be used or operated for any purpose other than testing, inspection or repair until the safety device has been restored to working order.

Restoration
of service
after
damage

(23) The ropes, safety devices, signalling devices, doors and other electrical and mechanical equipment necessary to the safe operation of elevating devices shall be inspected by a qualified person at least once each month and the results recorded.

Inspection

(24) The records of such inspections shall be made available to an engineer.

Records

(25) Hoisting or tail ropes shall not be lengthened or repaired by splicing. 1970, c. 79, s. 2, *part*.

Ropes not
to be spliced

CONSTRUCTION, SURFACE

573.—(1) In this section and in sections 574 to 604,

Interpre-
tation,
ss. 573-604

- (a) “allowable unit stress” means the allowable unit stress assigned to the material by the issue that is current from time to time of the National Building Code of Canada or similar recognized authority, or in the absence of a recognized authority, by a professional engineer, based on good engineering practice;
- (b) “boom of a crane” means the projecting part of a crane from which the load is supported;
- (c) “constructor” means a person who contracts with the owner or agent of a project for the work thereon, and includes an owner or agent who,
 - (i) contracts with more than one person for the work on a project, or
 - (ii) undertakes the work on a project or any part thereof;
- (d) “excavation” means an excavation on a project, and includes a trench, other than a trench excavated for prospecting purposes;

- (e) "extension trestle ladder" means a self-supporting combination of a trestle ladder and a vertically-adjustable single ladder, with a suitable means for locking the ladders together;
- (f) "falsework" means the structural supports and bracing for forms;
- (g) "form" or "formwork" means the mould into which concrete is placed;
- (h) "framed structure" means a structure designed to act as a unit composed of members so connected to one another that a load applied to any member of it may alter the stresses induced in the other members, and includes a truss, a tubular metal frame and a column where the effective length is dependent upon the provision of lateral restraints between the ends of the column;
- (i) "ladder-jack" means a device attached to a ladder used for supporting a scaffold;
- (j) "life jacket" means a life jacket bearing a Department of Transport, Canada Approval Number for a body weight more than 90 lb.;
- (k) "life-net" means a net of adequate strength so placed and supported as to safely catch a person who might fall into it;
- (l) "means of egress" means a passageway, ramp, runway, stairway or ladder leading to an exit from a building, structure or excavation;
- (m) "outrigger scaffold" means a scaffold that is supported by rigid members cantilevered out from the structure to which they are anchored;
- (n) "project" means,
 - (i) a building or other structure that is being constructed, altered, repaired, demolished or moved, or
 - (ii) a roadway that is being built, altered, repaired, demolished or moved;
- (o) "recommended load" means the load established for a scaffold for the particular method of loading by a professional engineer based on the test loading of a tubular metal frame and its accessories and which shall not exceed one third of the failure load when the frame is tested by loading axially through the corner posts;
- (p) "stable slope" means the slope at which the wall of an excavation in soil will safely remain in place without extra support, during the time period when the walls of the excavation will be unsupported;

- (q) "subcontractor" means a person who contracts with a constructor for the work on part of a project, and includes a person who contracts with a subcontractor for work on a part of the project;
- (r) "supplier" means an owner of any machine, vehicle, tool or other equipment who provides under any rental, leasing or other arrangement, such equipment for use by a person on a project;
- (s) "trestle ladder" means a self-supporting portable ladder, non-adjustable in length, consisting of two sections hinged at the top to form equal angles with the base.

(2) Except where a contrary intent is provided, this section and sections 574 to 604 apply only to construction operations on a surface of a mining premises or at a plant. 1970, c. 79, s. 2, *part*. Applica-
tion of
ss. 574-604

574.—(1) The responsibilities of contractors and subcontractors on a project in connection with the requirements of this section and sections 574 to 581 are as prescribed in subsection 19 of section 177. Responsi-
bility of
contractors
and sub-
contractors

(2) No supplier shall provide any machine, vehicle, tool or equipment, or any part thereof, for use by a person on a project under any rental, leasing or other arrangement if such machine, vehicle, tool, equipment or part is in an unsafe condition. Machines
to be
in safe
condition

(3) Every constructor and every subcontractor shall appoint one or more competent persons to exercise direction and control over persons employed by him on each shift, and one such person may be himself. 1970, c. 79, s. 2, *part*. Shift
bosses

575. Where one or more persons may be endangered by passing vehicular traffic on a road on a project, one or more of the following safeguards located at a suitable distance from the employees shall be provided as appropriate to give them adequate protection: Traffic
control

1. One or more flagmen.
2. Warning signs.
3. Barriers.
4. Lane control devices.
5. Flashing lights or flares. 1970, c. 79, s. 2, *part*.

576.—(1) In applying the requirements of sections 574 to 604, Applica-
tion, alter-
native
methods
and
materials

- (a) the composition of an object; and
- (b) the size and arrangement of material of an object may vary from that prescribed, but only to the extent that

the strength of the object and the safety of its use by persons is equal to or greater than the strength and safety as prescribed and where any conflict arises in the application of these sections as to whether the variation and composition of material of the object or the size and arrangement of material of the object is equal to that prescribed, an engineer's opinion prevails.

Idem

(2) In applying subsection 1, the written opinion of the chief engineer takes precedence. 1970, c. 79, s. 2, *part*.

GENERAL

Capacity
to support
loads

577.—(1) During the construction, alteration, repair, dismantling, demolition or moving of a building or other structure, all parts thereof shall be,

- (a) capable of safely supporting the loads to which they may be subjected; or
- (b) adequately braced, either permanently or temporarily, to safely support the loads to which they may be subjected.

Lighting

(2) All areas in which persons are present, and the means of access to and egress from such areas, shall be adequately lighted.

Protection
of floor
openings

(3) Every opening in a floor or other surface used by persons shall,

- (a) be protected by a guardrail; or
- (b) be covered with securely fastened planks or other material capable of supporting any load likely to be imposed thereon.

Flooring

(4) During construction of a building, temporary or permanent flooring shall,

- (a) be installed progressively so that the flooring will be provided prior to a person being required to work in a position exceeding two storeys above such flooring or three storeys where the vertical distance between column splices exceeds two storeys;
- (b) where used as a working surface, extend over the whole area except for necessary openings which shall be protected by a guardrail;
- (c) consist of material providing strength sufficient to support any load likely to be applied and at least equal to sound No. 1 Construction Grade Eastern Spruce planking two inches thick and ten inches wide with a span of ten feet;

- (d) be securely fastened to and supported on girders, beams or other structural members capable of safely supporting the applied loads; and
- (e) not be required where the work is being done from a scaffold.

(5) Overhead protection, at least equal to sound No. 1 Construction Grade Eastern Spruce planking two inches thick and ten inches wide with a maximum span of ten feet shall be provided, Overhead protection

- (a) at every means of access to and egress from a building or other structure during construction or demolition where there is danger of material falling on a person;
- (b) above a scaffold, where there is danger of material falling on a person on the scaffold; and
- (c) above an area where a person is required to be directly below other work being done, and there is danger of material falling on the lower person.

(6) A sufficient number of signs bearing the word "DANGER" in clearly distinguishable lettering shall be posted, Danger signs

- (a) where a covering prescribed by subsection 3 has been temporarily removed while work is being done which cannot be done with the covering installed;
- (b) where the installation of a guardrail is prescribed by the requirements of section 594, and the guardrail has temporarily been removed while work is being done which cannot be done with the guardrail installed;
- (c) adjacent to a hoisting area;
- (d) under a suspended scaffold; and
- (e) at the outlet end of a chute. 1970, c. 79, s. 2, *part*.

578.—(1) Where a structure has suffered damage likely to endanger the safety of a person by collapse of all or part of it, the structure shall be braced and shored or other measures taken to prevent injury to a person until the structure is demolished, dismantled, or repaired. Damaged structures

(2) The bracing and shoring prescribed in subsection 1 shall be installed progressively so as to provide for the safety of persons installing the bracing and shoring. 1970, c. 79, s. 2, *part*. Idem

579.—(1) Means of access to and egress from every excavation, floor, roof, platform and scaffold, other than a suspended scaffold, where work is being performed, shall, Access and egress from work areas

- (a) be by a stair, runway, ramp or ladder; and

(b) be maintained in a safe condition at all times.

Idem

(2) Every means of access and egress prescribed by subsection 1 and every scaffold from which work is being performed shall,

(a) be kept clear of obstructions;

(b) be kept clear of ice, snow or other slippery materials; and

(c) when necessary to ensure firm footing, be sprinkled with sand or other suitable abrasive material.

Where
stairs
planned

(3) When work on a building or other structure in which stairs are intended to be part of the permanent building or structure has progressed to two storeys or thirty feet above the lowest floor level, whichever is the lesser, the means of egress shall be by permanent or temporary stairs that shall,

(a) be provided for the entire height from the lowest floor level to the uppermost working level, except where the stairs would interfere with work on the uppermost working level, in which case stairs shall be provided to within two storeys or thirty feet vertically, whichever is the lesser, of the uppermost working level; and

(b) be continued as the height of the project is increased.

Where
stairs not
planned

(4) When work on a building or other structure intended to be 100 feet or more in height, and in which stairs are not intended to be part of the permanent building or structure, is in progress, the means of egress shall be by temporary stairs that shall,

(a) be provided for the entire height from the ground to the uppermost working level, except where the stairs would interfere with work on the uppermost working level, in which case stairs shall be provided to within two storeys or thirty feet vertically, whichever is the lesser, of the uppermost working level; and

(b) be continued as the height of the project is increased.

Exception
to subss. 3, 4

(5) Subsections 3 and 4 do not apply to the means of egress from a skeleton structure.

Idem,
subs. 4

(6) Subsection 4 does not apply to a structure, including a chimney stack or pressure vessel, which has a permanent ladder attached to it as part of the completed structure and the combined structure and ladder are fabricated before being raised into position as a unit. 1970, c. 79, s. 2, *part*.

Personal
protective
clothing,
equipment
and devices

580.—(1) No person shall be in an area where he may be exposed to injury from a noxious gas, liquid, fume or dust, or due to lack of oxygen, unless he is suitably protected against the particular type of hazard.

(2) Where the injury exposure referred to in subsection 1 is Apparel from skin contact with a noxious gas, liquid, fume or dust, the protection provided shall be,

- (a) protective apparel; or
- (b) protective skin cream suitable for the particular type of hazard.

(3) Where the injury exposure referred to in subsection 1 is Respirators from inhalation of a noxious gas, fume or dust, or due to lack of oxygen, the protection provided shall be,

- (a) adequate mechanical ventilation; or
- (b) the wearing of respiratory equipment suitable for the particular type of hazard.

(4) A safety belt shall be used by a person on a structure where Safety belts he is exposed to the danger of falling, and the nearest surface to which he might fall is more than ten feet below the place where he is working.

(5) The safety belt prescribed in subsection 4 shall be arranged Idem so that if the person should fall he will be suspended at a distance of not more than five feet below the place where he was working.

(6) Subsections 4 and 5 do not apply, Exceptions to subss. 4, 5

- (a) to a person using a means of access or egress;
- (b) where a life-net is installed to provide equal protection; or
- (c) to a person who is an erector engaged in connecting structural members of a skeleton structure or in gaining access thereto.

(7) Every person who may fall into water at a project with the Life jackets risk of drowning shall wear a life jacket.

(8) Subsection 7 does not apply to shallow water in which a life Exception to subs. 7 jacket cannot function properly.

(9) In addition to the life jacket prescribed in subsection 7, Rescue equipment rescue equipment shall be provided in a suitable location near the project and, where practicable, shall consist of,

- (a) a boat in operating condition, equipped with,
 - (i) a ring buoy attached to fifty feet of three-eighths of an inch manila rope,
 - (ii) a boat hook, and
 - (iii) two or more life jackets to provide one for each of the persons needed to properly operate the boat; and

- (b) where there is a current in the water, a line across the water to which there are attached floating objects capable of providing support for a person in the water.

Idem

(10) In locations where the water is extremely rough or swift or where a manually operated boat is not practical, the boat prescribed in subsection 9 shall be a power boat suitable for the waters involved.

Additional
require-
ments

(11) Where this section applies,

- (a) two or more persons shall be designated and shall be immediately available to perform any necessary rescue operations;
- (b) a suitable alarm system shall be provided; and
- (c) the designated persons shall immediately commence rescue operations when the alarm is given. 1970, c. 79, s. 2, *part, amended*.

PROJECT EXCAVATIONS

Services to
be shut off

581.—(1) No excavation or trench shall be commenced until all gas, electrical and other services that are likely to endanger the safety of persons have been properly shut off and disconnected.

Stability of
adjacent
buildings

(2) No excavation shall be made that may endanger the persons on a project or the stability of an adjacent building or structure.

Walls to be
supported

(3) The walls of an excavation shall be adequately supported by shoring and bracing, and where the excavation is a trench as defined in section 582, the requirements for shoring and bracing as defined therein apply.

Exceptions
to subs. 3

(4) Subsection 3 does not apply to the walls of an excavation,

- (a) less than four feet deep;
- (b) into which persons are not required to enter for any purpose;
- (c) cut in solid rock;
- (d) that have been cut and trimmed to a slope having not more than one foot of vertical rise to each foot of horizontal run;
- (e) that have been cut and trimmed to a slope steeper than that prescribed by clause *d*, and where a professional engineer has certified in writing that the steeper slope is a stable slope that will not endanger persons; or
- (f) in which persons are not required to be within a horizontal distance of the walls equal to the height of the walls. *Amended*.

(5) The walls of an excavation shall be stripped of loose rock or other material that might slide, roll or fall upon persons below. *amended.* Walls to be scaled

(6) A clear and reasonably level area extending at least two feet back shall be maintained free of all materials at the top of the walls of an excavation. Flat area at top of walls

(7) No vehicle or other machinery shall be driven or operated or located so close to the edge of an excavation as to affect the stability of the walls of the excavation by vibration or otherwise and endanger the safety of any person. Vehicles and machinery

(8) The top of the walls of an excavation shall be protected by an adequate barrier at least forty-two inches high if, Barriers

(a) the depth of the excavation exceeds ten feet; and

(b) the safety of a person can be endangered by falling into the excavation.

(9) When a person is employed adjacent to or near an excavation which is not required to be protected by a barricade as prescribed by subsection 8, warning lights shall be provided and properly maintained from one-half hour before sunset until one-half hour after sunrise and at such other times as there is equally restricted visibility. Warning lights

(10) Every excavation shall be kept reasonably free of water at all times. 1970, c. 79, s. 2, *part.* Water

582.—(1) In this section and in section 583, “trench” means any excavation in the ground where the vertical dimension from the highest point of the excavation to a point level with the lowest point of the excavation exceeds the least horizontal dimension of the excavation, such dimensions being taken in a vertical plane at right angles to the longitudinal centre line of the excavation. Interpretation

(2) The requirements of this section for shoring and bracing the walls of a trench do not apply, *except as otherwise provided.* Shoring and bracing trenches, exceptions

(a) to a trench less than four feet deep;

(b) to a trench into which persons are not required to enter for any purpose;

(c) to a trench cut in solid rock;

(d) to a trench where the work therein is done only by the owner thereof in person; or

(e) to a part of a trench excavated for a pipeline or conduit if the trench is mechanically excavated, if the sections of the line or conduit are permanently assembled before being mechanically placed in the trench, and if the trench is mechanically back-filled.

**Shoring
and
timbering**

(3) The sides of all trenches exceeding four feet in depth shall be securely shored and timbered with good quality material in accordance with these requirements and the shoring and timbering shall extend at least one foot above the top of the trench, except that where the district mining engineer gives permission in writing to the person in charge of the work in connection with the trench, the shoring and timbering need not extend above the top of the trench.

Application

(4) Subsection 3 does not apply where the trench is cut in solid rock or where the trench is excavated in hard and solid soil and does not exceed six feet in depth or where the sides of the trench are sloped to within four feet of the bottom of the trench so that the sloped sides of the trench do not have more than one foot of vertical rise to each foot of horizontal run.

**Trench with
sloping sides**

(5) Where the sides of a trench are sloped as described in subsection 4 but not to within four feet of the bottom of the trench, the vertical walls of the trench shall be shored and timbered with good quality material in accordance with these requirements and the shoring and timbering shall extend at least one foot above the vertical walls and be fitted with toe-boards to prevent material rolling down the slope and falling into the part of the trench with vertical walls.

**Drawings
for shoring
and
timbering**

(6) Drawings and specifications for the shoring and timbering of all trenches to exceed thirty feet in depth and all trenches to exceed twelve feet in width shall be submitted in duplicate to the district mining engineer and the trench shall not be commenced until the drawings and specifications have been approved by the engineer and the shoring and timbering shall conform to such approved plans.

**When
shoring
and
timbering
to be done**

(7) Shoring and timbering shall be carried along with the excavating of a trench but when conditions permit may be done before the excavating commences.

**Removal of
shoring**

(8) Where the shoring and timbering is to be removed on completion of the other work in a trench, such removal shall be done by or under the personal supervision of a person experienced in removing shoring and timbering.

**Ladders
to be
provided**

(9) Ladders or other means of escape satisfactory to the district mining engineer shall be provided in every trench and such ladders or other means of escape shall be spaced at intervals of not more than fifty feet in each trench and shall extend three feet above the top of the trench.

**Staging and
scaffolding**

(10) Where staging or scaffolding for handling by hand in relays materials excavated from the trench is erected independently of the shoring and timbering on the sides of the trench, it shall be structurally adequate to protect persons working thereon

or in the trench from collapse of the staging or scaffolding or from falling objects.

(11) Where the staging or scaffolding is attached to the shoring and timbering on the sides of the trench, the shoring and timbering shall be sufficiently reinforced to withstand the additional load thereby imposed on the shoring and timbering. 1970, c. 79, s. 2, *part*.

583.—(1) In this section,

Interpre-
tation

- (a) “cleat” means a short member of shoring and timbering that directly resists the downward movement of a strut or wale;
- (b) “sheathing” means the vertical members of shoring and timbering that directly resist pressure from the side of a trench;
- (c) “strut” means a transverse member of shoring and timbering that directly resists pressure from sheathing or wales;
- (d) “wale” means a longitudinal member of shoring and timbering that directly resists pressure from sheathing.

(2) In all methods of shoring and timbering of a trench,

Methods of
shoring and
timbering
trenches

- (a) the sheathing shall be placed against the side of the trench so that the length of each piece of sheathing is vertical;
- (b) the struts shall be horizontal and at right angles to the wales or sheathing supported thereby; and
- (c) the wales shall be parallel to the bottom or the proposed bottom of the trench.

(3) The sheathing shall be held securely in place against the wales or, where wales are not used, the struts by pressure being firmly exerted on the side of the sheathing adjacent to the wall of the trench.

Sheathing

(4) Where the trench is excavated in,

Idem

- (a) loose, sandy or soft soil;
- (b) soil that has been previously excavated; or
- (c) soil under hydrostatic pressure,

each piece of sheathing shall be driven into the bottom of the trench so as to be firmly held in place.

(5) Each strut shall be,

Struts

- (a) cut to the proper length required to fit it tightly between,

- (i) the wales, or
 - (ii) where wales are not used, the sheathing, supported by the strut; and
 - (b) where necessary, held securely in place by wedges driven between the strut and,
 - (i) the wales, or
 - (ii) where wales are not used, the sheathing, supported by the strut.
- Idem (6) Each strut shall,
- (a) have,
 - (i) cleats that extend over the wales supported by the strut, or
 - (ii) other similar devices, attached securely to the strut by spikes or bolts; or
 - (b) be placed on,
 - (i) cleats spiked or bolted to posts supporting wales, or
 - (ii) where wales are not used, cleats or other similar devices spiked to the sheathing.
- Wales (7) Each wale shall be supported,
- (a) on cleats spiked to the sheathing; or
 - (b) by posts set on,
 - (i) the wale next below it, or
 - (ii) in the case of the lowest wale, the bottom of the trench.
- Composition of materials (8) The composition of materials used for shoring and timbering shall be,
- (a) structural Eastern Spruce; or
 - (b) any other structural material having strength equal to or greater than that prescribed in clause *a*.
- Members (9) Each member used for shoring and timbering shall be a solid piece of material.
- Wales in trenching (10) Where wales are used in the shoring and timbering of a trench, the smaller dimension of the wales shall be placed against the sheathing.
- Composition of materials (11) The composition of materials used for shoring and timbering may vary from that prescribed in clause *a* of subsection 8, and the size, composition and arrangement of materials used for shoring and timbering may vary from that prescribed in subsection 16, but only to the extent that the strength of the shoring and

timbering is equal to, or greater than, the strength of the shoring and timbering prescribed in subsection 16.

(12) Where two or more pieces of sheathing are used one above another in the shoring and timbering of a trench, the sheathing shall be arranged so that the lower pieces of sheathing, Arrangement of sheathing

- (a) overlap the lowest wales supporting the pieces of sheathing next above it; and
- (b) are firmly driven into the soil and securely supported by wales and struts as the trench is made deeper.

(13) Subject to subsection 14, in the shoring and timbering of a trench, a trench-jack or trench-brace may be used in place of a strut prescribed by this requirement, but only if the strength of the trench-jack or trench-brace is equal to, or greater than, the strength of the strut. Trench-jacks and trench-braces

(14) Where the trench is over four feet in width, a trench-jack or trench-brace that contains a metal pipe-spacer shall not be used. Idem

(15) Where a wedge is used in the shoring and timbering of a trench, the thick end of the wedge shall be at least two inches wide. Wedges

(16) Where the material used for shoring and timbering is that prescribed by clause *a* of subsection 8, the size and arrangement of materials used for shoring and timbering shall be as prescribed in, Where shoring and timbering is structural Eastern Spruce

- (a) table 1 for hard and solid soil;
- (b) table 2 for soil that may crack or crumble;
- (c) table 3 for loose, sandy or soft soil, or soil that has been previously excavated; or
- (d) table 4 for soil under hydrostatic pressure,

for depths of trenches shown in column 1 of the tables and shall have,

- (e) the pieces of sheathing,
 - (i) with a thickness and width not less than that prescribed in column 2, and
 - (ii) arranged so that the horizontal spacing from the centre of one piece of sheathing to the centre of the next piece of sheathing on the same side of the trench is not greater than the spacing prescribed in column 3;
- (f) the wales,
 - (i) with a thickness and width not less than that prescribed in column 4, and
 - (ii) arranged so that the vertical spacing from the centre of one wale to the centre of the next wale is

not greater than the spacing prescribed in column 5; and

(g) the struts,

- (i) with a thickness and width not less than that prescribed in column 6, where the trench is six feet or less in width, or with a thickness and width not less than that prescribed in column 7, where the trench is twelve feet or less in width but greater than six feet in width,
- (ii) arranged so that the vertical spacing from the centre of one strut to the centre of the next strut is not greater than the spacing prescribed in column 8, and
- (iii) arranged so that the horizontal spacing from the centre of one strut to the centre of the next strut is not greater than the spacing prescribed in column 9.

HOUSEKEEPING

Tools

584.—(1) No tool or other object shall be placed where it may endanger a person.

Formwork
ties

(2) Formwork ties protruding from concrete shall be removed or cut off at the surface of the concrete as soon as is practicable after removal of the formwork.

Protruding
nails

(3) Protruding nails in lumber or scrap material shall be removed or bent so as not to be a source of danger to persons.

Debris

(4) Waste material and debris on a project shall be removed to a suitable disposal area as often as necessary to prevent a hazardous condition, but not less frequently than daily.

Rubbish

(5) Rubbish, debris and other materials shall,

- (a) not be permitted to fall freely from one level to another; and
- (b) be lowered by a chute or in a suitable container.

Idem

(6) Large objects of rubbish, debris or other similar material shall be lowered by crane, hoist or other suitable means.

Idem

(7) Subsections 5 and 6 do not apply to a demolition project where material falls or is dropped into a designated area which is adequately enclosed and to which persons do not have access.

TABLE 1
(For hard and solid soil)
(Section 583 (16))

ITEM No.	DEPTH OF TRENCH	SHEATHING		WALES		STRUTS			
		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9
	Column 1								
	Feet	Inches	Feet	Inches	Feet	Inches	Inches	Feet	Feet
1	Over 6 but not over 10	2 x 8	6	.....	.....	4 x 4	4 x 6	4	9
2	Over 10 but not over 15	2 x 8	4½	6 x 6	4	4 x 6	6 x 6	4	9
3	Over 15 but not over 20	2 x 8	3	8 x 8	4	6 x 6	6 x 6	4	9
4	Over 20 but not over 25	2 x 6	Width of member	10 x 10	4	6 x 8	8 x 8	4	9
5	Over 25 but not over 30	3 x 8	Width of member	8 x 12	4	8 x 8	8 x 10	4	9

TABLE 2

(For soil that may crack or crumble)
(Section 583 (16))

ITEM No.	DEPTH OF TRENCH	SHEATHING		WALES		STRUTS			
		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9
	Column 1								
	Feet	Inches	Feet	Inches	Feet	Inches	Inches	Feet	Feet
1	Over 4 but not over 7	2 x 8	4½	4 x 6	4	4 x 4	.....	4	9
2	Over 7 but not over 10	2 x 8	3	6 x 6	4	4 x 4	6 x 6	4	9
3	Over 10 but not over 15	2 x 8	1	6 x 8	4	4 x 6	6 x 6	4	9
4	Over 15 but not over 20	2 x 6	Width of member	8 x 10	4	6 x 6	8 x 8	4	9
5	Over 20 but not over 25	2 x 6	Width of member	10 x 10	4	6 x 8	8 x 8	4	9
6	Over 25 but not over 30	3 x 8	Width of member	8 x 12	4	8 x 8	8 x 10	4	9

TABLE 3

(For loose, sandy or soft soil or soil that has been previously excavated)
(Section 583 (16))

ITEM No.	DEPTH OF TRENCH	SHEATHING		WALES		STRUTS		
		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
	Column 1							Column 9
	Feet		Feet	Inches	Feet	Inches	Inches	Feet
1	Over 4 but not over 7	Inches 2 x 8	1 1/3	4 x 6	4	4 x 4	4 x 6	4
2	Over 7 but not over 10	2 x 6	Width of member	6 x 8	3	4 x 6	6 x 6	3
3	Over 10 but not over 15	2 x 6	Width of member	8 x 8	4	6 x 6	6 x 6	4
4	Over 15 but not over 20	2 x 6	Width of member	8 x 10	4	6 x 6	6 x 8	4
5	Over 20 but not over 25	3 x 8	Width of member	8 x 10	4	6 x 8	8 x 8	4
6	Over 25 but not over 30	3 x 8	Width of member	10 x 10	4	8 x 8	8 x 8	4

TABLE 4

(For soil under hydrostatic pressure)
(Section 583 (16))

ITEM No.	DEPTH OF TRENCH	SHEATHING		WALES		STRUTS			
		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9
	Column 1								
	Feet	Inches	Feet	Inches	Feet	Inches	Inches	Feet	Feet
1	Over 4 but not over 7	2 x 6	Width of member	6 x 8	4	4 x 4	6 x 6	4	9
2	Over 7 but not over 10	2 x 6	Width of member	6 x 10	3	4 x 6	6 x 6	3	9
3	Over 10 but not over 15	3 x 8	Width of member	10 x 10	3½	6 x 6	6 x 6	3½	9
4	Over 15 but not over 20	3 x 8	Width of member	10 x 12	3½	8 x 8	8 x 8	3½	9
5	Over 20 but not over 25	4 x 8	Width of member	10 x 14	3	8 x 8	8 x 10	3	9
6	Over 25 but not over 30	4 x 8	Width of member	14 x 14	3	8 x 10	10 x 10	3	9

1970, c. 79, s. 2, *part.*

(8) Every chute shall, Chutes

- (a) be well constructed and rigidly fastened;
- (b) if at more than 45 degrees to the horizontal, be enclosed on four sides;
- (c) if of the open type, be inclined at an angle of 45 degrees or less to the horizontal; and
- (d) have a strong gate at the bottom end where necessary to control the flow of material from the chute.

(9) The entrance to a chute shall, Idem

- (a) be so constructed as to prevent hazardous overspill when rubbish, debris or other materials are being deposited into the chute;
- (b) have 4-inch by 4-inch or larger curb or cleat where the entrance is at or below the floor level;
- (c) be not more than four feet high; and
- (d) be kept closed when not in use. 1970, c. 79, s. 2, *part*.

STORAGE OF MATERIALS

585.—(1) Material to be used on or removed from a project, Handling
of materials

- (a) shall be stored in an orderly manner and so as not to endanger the safety of persons;
- (b) when being moved or transported on the project, shall be moved only in such a manner that the material cannot endanger the safety of persons; and
- (c) when it is to be off-loaded from a vehicle or stockpile, shall not have any blocking or binder that is required to maintain the material in a safe position removed until the removal of the blocking or binder will not allow the material to shift and endanger the safety of persons.

(2) Building materials or equipment shall not be placed or stored on a permanent or temporary structure so as to exceed the safe loadings of the structure or any part thereof. Storage
of materials

(3) No building material shall be stored, stacked or piled within six feet of, Idem

- (a) a floor or roof opening;
- (b) the open edge of a floor, roof or balcony; or
- (c) an excavation.

(4) Subsection 3 does not apply to small masonry units, including bricks and blocks, which can be handled by one person and the material is, Masonry
units

- (a) to be used at the edge of,
 - (i) a floor,
 - (ii) a roof,
 - (iii) an opening in a floor, or
 - (iv) an opening in a roof; and
- (b) the height of the pile is less than the distance of the pile from the edge described in clause a.

Storage of
lumber,
steel, etc.

(5) Lumber, structural steel and similar materials shall be stored so that the pile is secure against collapsing or tipping.

Idem,
lumber

(6) A pile of lumber more than four feet high shall have cross pieces to provide stability.

Masonry
units when
stacked

(7) Masonry units shall be stacked,

- (a) on level wooden planks, a platform or other level base;
- (b) in tiers throughout a pile;
- (c) so that a vertical face of a pile is not over seven feet in height;
- (d) when the pile is more than seven feet in height, by progressively stepping the pile back from the vertical faces;
- (e) when the pile is more than seven feet in height, with wood strips between tiers to provide stability; and
- (f) with header units in the pile where necessary to provide stability.

Bagged
material

(8) Bagged material shall be,

- (a) piled with cross-piles on the exterior of the pile to prevent movement of the bags;
- (b) piled not more than ten bags high at a vertical face of a pile, except where the pile is in a storage bin or enclosure and the face of the pile is supported by the walls of the storage bin or enclosure; and
- (c) removed from a pile so that the top of the pile is kept approximately level.

Pipe and
steel

(9) Pipe and reinforcing steel shall be stacked in substantially supported and braced racks or frames unless some other provision is made to prevent their movement.

Flammable
liquids

(10) No flammable liquid in excess of one day's supply in safe containers shall be stored in a building or structure except in a room with sufficient window area to provide explosion relief to the outside and which is separated from the means of egress from the building or structure.

(11) A container for a combustible (other than a fuel), corrosive or toxic substance shall, Containers

- (a) be suitable for the particular substance; and
- (b) be clearly labeled to identify,
 - (i) the substance,
 - (ii) the hazard involved in the use of the substance, and
 - (iii) the safeguards and protective measures to be taken by persons before, during and after using the substance.

(12) A container for a fuel shall be identified as to Fuel content. 1970, c. 79, s. 2, part. containers

SANITATION

586.—(1) An adequate supply of potable water shall be kept readily accessible for persons. Drinking water

(2) The potable water shall be supplied from a piping system or from a clean, covered container having a drain faucet. Idem

(3) No person shall be required to, or shall, use a dipper or drinking cup in common with another person. Drinking cups

(4) Adequate flush toilets, chemical toilets or privies shall be provided or made available for the use of persons from the start of the project, Toilet facilities

- (a) within reasonably easy access of their place of work; and
- (b) so that there is at least one toilet or privy for every thirty or fewer persons on the project at any one time.

(5) Every flush toilet, chemical toilet or privy shall, Idem

- (a) be constructed so that any user is sheltered from view and protected from the weather and from falling objects;
- (b) have natural or artificial illumination;
- (c) be provided with adequate supplies of toilet paper and disinfectant;
- (d) be maintained in a clean and sanitary condition;
- (e) be equipped with a toilet seat and cover; and
- (f) if portable, be equipped with a urinal trough in addition to the toilet or privy.

(6) Washing facilities with adequate clean water, soap and individual towels or other drying equipment shall be provided for persons who use or handle corrosive, poisonous or other substances likely to endanger their safety. 1970, c. 79, s. 2, part. Washing facilities

FIRE PROTECTION

Fire
extinguishers

587.—(1) Fire extinguishing equipment shall be provided where risk of fire exists that is,

- (a) suitable as to type and size for combatting the likely fire;
- (b) protected from mechanical injury;
- (c) located for easy access at suitably marked stations;
- (d) maintained in good operating condition; and
- (e) protected from freezing.

Standpipes

(2) Where a permanent standpipe is to be installed in a building, it shall,

- (a) be installed progressively, so far as is practicable, as the building construction proceeds;
- (b) be provided with a valve at each hose outlet;
- (c) have a 1½-inch diameter hose, with a combination straight stream and fog nozzle, connected to the valve at each hose outlet and shall be installed in all storeys in such locations that each portion of the building is protected by means of hose not over seventy-five feet in length;
- (d) where applicable, have a suitable connection for the municipal fire department located on the street side not more than three feet and not less than one foot above grade and clear and easy access to the connection shall be maintained at all times; and
- (e) be provided with adequate water pressure.

Fire
extinguishers

(3) A fire extinguisher shall,

- (a) be recharged immediately after use and returned to its designated position;
- (b) be inspected at least monthly and the date of the last inspection recorded on it; and
- (c) not contain carbon tetrachloride, methyl bromide or other toxic vapourizing liquids.

Water-type
fire
extinguishers

(4) At least one water-type fire extinguisher of a stored pressure, cartridge operated or pump tank type, having a capacity of two Imperial gallons, shall be provided,

- (a) in every workshop;
- (b) in every storage building for combustible materials;
- (c) in places where welding or flame-cutting operations are carried on, while the operations are being carried on and for a reasonable time after their conclusion; and

- (d) on each storey having a floor space of 5,000 sq. ft. or less in an enclosed building being constructed or altered, and an additional fire extinguisher for each additional 5,000 sq. ft. of floor space in the storey or any fraction thereof.

(5) Clause *d* of subsection 4 does not apply to a single storey building without a basement or cellar. Exception as to subsection 4 clause *d*

(6) One or more dry chemical fire extinguishers, the contents of which are discharged under pressure and with a capacity of at least four pounds or other equally effective extinguishers shall be provided, Dry chemical fire extinguishers

- (a) where flammable liquids are stored or handled;
- (b) where oil-fired or gas-fired equipment is used; and
- (c) where a tar or asphalt kettle is used. 1970, c. 79, s. 2, *part*.

ELECTRICAL, WELDING, AND HAULAGE REQUIREMENTS DURING CONSTRUCTION

588.—(1) Electrical equipment and wiring methods used during the construction period shall comply with the electrical requirements of this Part. Electrical equipment

(2) Where welding and burning is done during the construction period, the requirements of section 256 apply. Welding and burning

(3) Where haulage equipment is used during the construction period, the requirements of sections 246 to 248 apply. 1970, c. 79, s. 2, *part*. Haulage

TEMPORARY HEAT

589.—(1) A fuel-fire heating device shall, Fuel-fired heating devices

- (a) be so located, protected and used that it will not risk the ignition of,
 - (i) a tarpaulin or similar temporary enclosure, or
 - (ii) adjacent wood or other combustible materials;
- (b) be used only in a confined or enclosed space where there is provided,
 - (i) an adequate supply of air for combustion, and
 - (ii) adequate general ventilation of the space;
- (c) be located so as to be protected from damage or overturning;
- (d) not be located in or adjacent to a means of egress; and
- (e) when used to burn a solid fuel, be connected by a securely supported sheet metal pipe to discharge properly the products of combustion outdoors.

Fuel supply
lines

(2) Fuel supply lines shall be protected from damage.

Temporary
steam
piping

(3) Temporary steam piping shall be,

- (a) installed properly and supported securely; and
- (b) insulated or protected by screens or guards where persons may accidentally come into contact with the piping. 1970, c. 79, s. 2, *part*.

CONSTRUCTION EQUIPMENT

Vehicles,
machinery,
tools, etc.

590.—(1) Vehicles, machinery, tools and equipment used on a project,

- (a) shall be in such condition that when used they will not endanger persons;
- (b) shall not be used while being repaired or serviced;
- (c) shall, when operated by motive power, have been inspected by an authorized person at least once in the twenty-four hours prior to their use;
- (d) shall, when applicable, have a safe means of access to the operator's station; and
- (e) shall have at least the same factor of safety as the original design for all modification, extensions, replacement parts or repairs.

Operators of
motorized
vehicles

(2) No person shall operate a motorized vehicle unless he is authorized to do so.

Exception

(3) Subsection 2 does not apply to a person,

- (a) who is under instruction in the operation of the vehicle; and
- (b) who is accompanied by a person who is authorized to operate a motorized vehicle.

Moving
supports

(4) No person shall be on a moving support, including a platform, bucket, basket, load, hook or sling, supported by,

- (a) the boom of a crane or other similar hoisting machine; or
- (b) a fork-lift truck, front-end loader or other similar machine.

Exception

(5) Subsection 4 does not apply to,

- (a) a bucket or basket attached to a hydraulic-powered machine on which the operating controls are on the bucket or basket and the machine is equipped with a fail-safe device which automatically locks the support in position; and
- (b) the platform of an approved device for hoisting persons.

(6) All hoisting hooks shall be equipped with a safety catch. Hoisting
hooks

(7) Subsection 6 does not apply to hoisting hooks while being used in the placing of structural members when the method of placing is such that persons are as safe as if a safety catch were installed. Exception

(8) Friction-type clamps used in hoisting materials shall be so constructed that the accidental slackening of the hoisting cable does not release the clamp. Friction-
type
clamps

(9) Where hoisting is done by a device in which the weight of the load is not transferred to ground support at all times, such as by a balloon or helicopter, written permission shall be obtained from an engineer prior to hoisting. Balloons,
etc.

(10) A crane shall be equipped with a boom, Cranes

(a) authorized by the manufacturer; or

(b) designed by a professional engineer and fabricated in accordance with the requirements of his design.

(11) Manufacturers' load-rating plates shall be attached to all cranes in clear view of the operator and shall contain sufficient information to enable the operator to determine the safe load which can be hoisted by the crane under any conditions. Load-rating
plates

(12) Where the boom of a crane is other than that authorized by the manufacturer, the load-rating plate shall be in accordance with information supplied by a professional engineer. Idem

(13) Where a person may be endangered by the rotation or uncontrolled motion of a load being hoisted by a crane or similar machine, one or more guide ropes or tag lines shall be used to prevent the rotation or other uncontrolled motion. Guide
ropes

(14) When the operator of a crane, shovel or similar machine has his view of the path of travel of any part of the machine or its load obstructed, one or more competent signalmen shall assist him by keeping the part of the machine or its load under observation and communicating with the operator by adequate visual signals, or where this is impracticable, by a suitable telecommunication system. Where
signalmen
required

(15) While a section of a pipeline or hose is under pressure, no person shall commence to disconnect or carry out any repairs on that section. Repairs to
pipeline

(16) A hose supplying steam or air to the hammer of a pile driver shall have attached to it a wire rope or chain to prevent the hose from whipping if the hose becomes separated from the hammer. Pile drivers
supply
hoses

Lifting
jacks

(17) Every lifting jack shall,

- (a) have its rated capacity legibly cast or stamped in plain view on the jack; and
- (b) be equipped with a positive stop to prevent over-travel or with an indicator where a positive stop is impracticable.

Piles

(18) During the hoisting, placing, removal or withdrawal of piles or sheet-piling, they shall be adequately supported at all times and all persons not actually engaged in the operation shall be kept from the area.

Internal
combustion
engines

(19) No internal combustion engine shall be operated,

- (a) in an excavation unless adequate provision is made to ensure that exhaust gases and fumes will not accumulate in the excavation; or
 - (b) in an enclosed building or other enclosed structure unless,
 - (i) the exhaust gases and fumes are discharged directly to outdoors to a point sufficiently remote to prevent their return, or
 - (ii) there is an adequate supply of air for combustion and adequate mechanical exhaust ventilation.
- 1970, c. 79, s. 2, *part*.

SPECIAL PROVISIONS

Excavations
for wells

591.—(1) Where the walls of an excavation for a well are not supported as prescribed by subsection 3 of section 581, no person shall enter or remain in the excavation if it is over four feet in depth, unless,

- (a) a steel liner of adequate strength has been installed which,
 - (i) extends two feet above ground level and to within four feet of the point where the work is being done,
 - (ii) is adequately supported on two sides by steel wire rope, and
 - (iii) is such that the difference between the diameter of the excavation and the diameter of the liner does not exceed four inches; and
- (b) the person,
 - (i) works from within the steel liner,
 - (ii) is wearing a safety harness the rope of which is secured at the surface, and
 - (iii) is attended by another person who is stationed outside the excavation.

(2) No person shall enter a confined space where the means of egress is restricted, unless, Confined spaces

- (a) the space has been tested to ascertain if a hazard exists;
- (b) adequate precautions as prescribed by these requirements have been taken against any hazard found to exist;
- (c) he is attended by another person stationed outside the confined space; and
- (d) suitable arrangements have been made to remove the person from the confined space if he requires assistance, and where practicable, these arrangements shall include his use of a safety harness or safety belt.

(3) During rock drilling operations, an adequate supply of water shall be provided where necessary to control the dissemination of dust into the breathing zone of persons in the area who are not protected as required by subsection 3 of section 580. Rock drilling operations

(4) Where explosives are used on a project, sections 287 to 318 apply. 1970, c. 79, s. 2, *part*. Explosives

RUNWAYS, RAMPS, PLATFORMS

592.—(1) A runway, ramp or platform, other than a scaffold platform shall be, Runways etc.

- (a) designed, constructed and maintained to safely support all loads that may reasonably be expected to be applied to it;
- (b) nineteen inches or more in width; and
- (c) securely fastened in place.

(2) A ramp shall have, Ramps

- (a) a slope not exceeding one foot of vertical rise to each three feet of horizontal run; and
- (b) cross cleats if the slope exceeds one foot of vertical rise to each eight feet of horizontal run, and the cleats shall be,
 - (i) spaced at regular intervals not exceeding eighteen inches, and
 - (ii) of equivalent strength and have equivalent resistance to slipping as one inch by two inch dressed boards securely nailed to the ramp. 1970, c. 79, s. 2, *part*.

(3) Subsection 2 does not apply to a ramp installed in the stairwell of a building not exceeding two storeys in height, but every such ramp shall have, Exception

- (a) a slope not exceeding one foot of vertical rise to one foot of horizontal run; and

- (b) cross cleats,
 - (i) spaced at regular intervals not exceeding twelve inches, and
 - (ii) of equivalent strength and have equivalent resistance to slipping as two inch by two inch dressed boards securely nailed to the ramp. 1970, c. 79, s. 2, *part*.

LADDERS

Ladders

593.—(1) A ladder shall,

- (a) be designed, constructed, maintained and used so as not to endanger the safety of any person;
- (b) be used only in such a way that the loads applied do not cause the materials used in any part of the ladder to be stressed beyond the allowable unit stresses for the materials used;
- (c) be free from broken or loose members or other faults;
- (d) have rungs evenly spaced twelve inches on centres;
- (e) have side rails not less than twelve inches apart;
- (f) be placed on a firm footing;
- (g) be held in place by one or more persons while being used, if it exceeds thirty feet in length and is not securely fastened;
- (h) when not securely fastened, be placed so that the base of the ladder is not less than one quarter and not more than one third of the length of the ladder from a point directly below the top of the ladder and at the same level as the base of the ladder;
- (i) if used as a regular means of access between floors,
 - (i) be securely fastened in place,
 - (ii) extend at least three feet above every landing or floor,
 - (iii) have a clear space of four inches behind any rung, and
 - (iv) be so located that an adequate landing surface, clear of obstructions, is available at the top and bottom of the ladder;
- (j) not be in an elevator shaft or hoistway when such space is being used for hoisting; and
- (k) not be lashed to another ladder to increase its length.

(2) A wooden ladder shall,

- (a) consist of wood that is straight-grained and free from loose knots, sharp edges, splinters and shakes;

Wooden
ladders

- (b) not be painted or coated with an opaque material; and
 - (c) have rungs of clear straight-grained material that is free of knots.
- (3) A wooden ladder of the cleat type shall have, Wooden
cleat-type
ladders
- (a) side rails,
 - (i) not less than $1\frac{5}{8}$ inches by $3\frac{5}{8}$ inches for ladders up to and including nineteen feet long, and
 - (ii) not less than $1\frac{5}{8}$ inches by $5\frac{5}{8}$ inches for ladders over nineteen feet long; and
 - (b) cleats or rungs,
 - (i) not less than five eighths of an inch by $2\frac{5}{8}$ inches, and
 - (ii) braced by filler blocks between the cleats or rungs.
- (4) A double width ladder shall, Double
width
ladders
- (a) have three rails evenly spaced;
 - (b) be not less than five feet in width;
 - (c) have cleats or rungs that extend the full width of the ladder; and
 - (d) be securely fastened in place.
- (5) The maximum length of a ladder measured along the side rail shall be, Maximum
lengths of
ladders
- (a) 16 feet for a trestle ladder, a base section of an extension trestle ladder, or an extension section of an extension trestle ladder;
 - (b) 20 feet for a step ladder;
 - (c) 30 feet for a single ladder or individual section of a ladder;
 - (d) 48 feet for a two-section extension ladder; and
 - (e) 66 feet for an extension ladder having more than two sections.
- (6) Runs of ladders shall, Runs of
ladders
- (a) have rest platforms at intervals not greater than thirty-five feet; and
 - (b) be offset at every rest platform to provide overhead protection.
- (7) Subsection 6 does not apply to a permanently installed ladder which is provided with a safety cage over its entire length. Exception
- (8) When a step-ladder is being used as a self-supporting unit, When
ladder used
as a self-
supporting
unit
- (a) the legs shall be fully spread and the spreader shall be locked;

- (b) the top of the step-ladder shall not be used as a step; and
- (c) the pail shelf shall not be used as a step.

STAIRS

Temporary
stairs and
landings

(9) Temporary stairs and landings shall be designed and constructed to safely support a live load of 100 pounds per square foot.

Require-
ments for
stairs

(10) Stairs shall,

- (a) have treads and risers uniform in width, length and height in any one flight;
- (b) have stringers making an angle not exceeding fifty degrees from the horizontal;
- (c) have a vertical distance between landings not exceeding twelve feet; and
- (d) have a handrail equivalent to the top-rail of a guardrail as prescribed in these requirements securely fastened and supported in place on the open side or sides of each flight and at each landing.

Temporary
stairs

(11) Temporary stairs shall have a clear width of not less than thirty inches.

Skeleton
steel stairs

(12) Skeleton steel stairs shall have temporary wooden treads,

- (a) of suitable planking extending the full width and breadth of the stairs and landings; and
- (b) securely fastened in place.

Exceptions

(13) Clause *b* of subsection 10 and subsection 11 do not apply to a prefabricated stair erected inside a tower formed by scaffold frame sections where,

- (a) the stringers make an angle not exceeding sixty degrees from the horizontal; and
- (b) the stairs have a clear width of twenty inches. 1970, c. 79, s. 2, *part*.

GUARDRAILS

Where
guardrails
required

594.—(1) A guardrail shall be provided and maintained in good condition,

- (a) around any uncovered opening in a floor, roof or other surface; and
- (b) at the perimeter or any other open side of,
 - (i) a floor, including a mezzanine and a balcony,
 - (ii) a surface of a bridge,
 - (iii) a scaffold, including a platform, runway or ramp, or

(iv) a concrete roof, while the framework remains in place,

from which a person may fall,

(v) into water,

(vi) for a vertical distance of four feet or more where the scaffold referred to in subclause iii of clause *b* is used for wheelbarrows or other vehicles, or

(vii) for a vertical distance of ten feet or more.

(2) A guardrail shall have a height of not less than thirty-six inches and not more than forty-two inches above the surface, floor, scaffold or concrete roof on which it is installed.

Require-
ments for
guardrails,
height

(3) A guardrail shall be constructed in accordance with one of the following specifications:

Idem
specifica-
tions

1. A wooden guardrail, free from splinters and protruding nails, consisting of,
 - i. a top rail not less than $1\frac{5}{8}$ inches by $3\frac{5}{8}$ inches in cross-section, securely supported on posts not less than $1\frac{5}{8}$ inches by $3\frac{5}{8}$ inches in cross-section, spaced at intervals of not more than eight feet,
 - ii. an intermediate rail not less than three inches wide, securely fastened to the inner side of the post midway between the top rail and the toe-board, and
 - iii. a toe-board securely fastened to the posts or other vertical supports, and extending from the surface, floor, scaffold or roof, to a height of not less than five inches;
2. A wire cable guardrail maintained taut by means of a turnbuckle consisting of,
 - i. a top-rail and an intermediate rail of not less than one-half of an inch diameter wire cable with vertical separators at least two inches wide, spaced at intervals of not more than eight feet, and
 - ii. a toe-board securely fastened to the inner side of the vertical separators and extending from the surface, floor, scaffold or roof to a height of not less than five inches; or
3. Notwithstanding the height limitations of subsection 2, a guardrail of fencing material, commonly referred to as snow fencing, adequately supported in a vertical position and maintained taut, which shall have,
 - i. vertical pieces of lumber four feet long, not less than one and one-half inches wide and three-eighths of an inch thick, painted a distinctive colour, and woven between five double strands of number

thirteen Imperial Standard Gauge steel wire so that the lumber shall be tight between the wire and space at not more than three and one half inches centre to centre, and

- ii. the double stranded wires shall be wrapped round each other at least three times in each space between the lumber and shall be evenly spaced ten inches apart.

Guardrails

(4) A guardrail shall be constructed in accordance with paragraph 1 of subsection 3 if the district mining engineer is of the opinion that the wire cable guardrail or fencing material is not installed or is not being maintained in good condition. 1970, c. 79, s. 2, *part*.

SCAFFOLDS

Where
scaffolds
required

595.—(1) Where work cannot be done safely on or from the ground or from a building or other permanent structure, a scaffold constructed as prescribed in this section, or some other equally safe means of support for persons, shall be provided.

Use of
loose
objects
prohibited

(2) No person shall use stilts, a barrel, box or other loose object,

- (a) to stand upon while working; or
- (b) to support a scaffold or working platform.

Supervision
required

(3) The erection, use, dismantling or removal of a scaffold shall be done under the supervision of a person experienced in this work.

Carrying on
of work

(4) During the erection, alteration or dismantling of a scaffold or scaffold platform, work, other than that required for the erection, alteration or dismantling,

- (a) shall be done only from the parts of the scaffold or scaffold platform which comply with subsection 1 of section 594 and subsection 5 of this section; and
- (b) shall not be performed beneath the part being erected, altered or dismantled unless adequate overhead protection is provided.

Require-
ments for
scaffolds

(5) A scaffold shall,

- (a) be capable of supporting two or more times the maximum loading to which it may be subjected without exceeding the allowable unit stresses for the materials used and where the principal component of the scaffold is a tubular metal frame;
- (b) be constructed only of suitable structural material and where lumber is used, it shall be No. 1 Construction Grade Eastern Spruce or better;

- (c) have all uprights diagonally and horizontally braced to prevent lateral movement;
 - (d) have no splices between the points of support of horizontal members;
 - (e) have footings, sills or supports which shall be sound, rigid, and capable of supporting the maximum load without unsafe settlement or deformation;
 - (f) have all necessary fittings and gear, which shall be suitable and properly installed;
 - (g) have safety catches on all hooks; and
 - (h) be adequately secured to prevent lateral movement at vertical intervals not exceeding three times the least lateral dimension of the scaffold measured at the base.
- (6) A scaffold platform shall, Requirements for scaffold platforms
- (a) be designed, constructed and maintained to safely support all loads to be applied to it in accordance with clause *a* of subsection 5;
 - (b) be at least nineteen inches wide;
 - (c) when ten or more feet above a floor, roof or other surface, consist of planks tightly laid for the full width of the scaffold; and
 - (d) when lumber is used, have planks that,
 - (i) are of No. 1 Construction Grade Eastern Spruce or better,
 - (ii) are at least two inches thick and ten inches wide,
 - (iii) overhang its end supports by not less than six inches and not more than eighteen inches, and
 - (iv) are cleated or otherwise secured against slipping.
- (7) A suspended scaffold shall, Requirements for suspended scaffolds
- (a) be attached to a fixed support or an outrigger beam capable of supporting four or more times the maximum loading to which it may be subjected, without overturning and without exceeding the allowable unit stresses for the materials used;
 - (b) have hangers located not less than six inches and not more than eighteen inches from the ends of the platform;
 - (c) when capable of moving either vertically or horizontally,
 - (i) have rope falls equipped with suitable pulley blocks, or
 - (ii) have a mechanical hoisting device equipped with a positive locking device to prevent the scaffold from falling freely;

- (d) not use fibre rope where,
 - (i) the distance between blocks exceeds three hundred feet,
 - (ii) any corrosive substance is in the vicinity of the rope, or
 - (iii) any mechanical grinding or flame cutting equipment is to be used in the vicinity of the rope;
- (e) when not being raised or lowered, where practicable, be secured to and firmly anchored to the building or structure; and
- (f) have wire mesh of at least No. 16 gauge rejecting a ball one and a half inches in diameter, extending from the toe-board to the rail of the guardrail and fastened securely in place.

Boatswain's
chair

- (8) A boatswain's chair shall,
 - (a) be not less than two feet long and ten inches wide;
 - (b) be supported by a sling which shall be at least three-eighths of an inch wire rope, if the workman on the chair is using,
 - (i) any corrosive substance, or
 - (ii) any mechanical grinding or flame cutting equipment; and
 - (c) not be required to comply with clauses *b* and *f* of subsection 7.

Safety
belts

(9) Each person on a suspended scaffold shall use a safety belt attached in a satisfactory manner to a separate independently suspended life-line of at least five-eighths of an inch manila rope securely attached overhead to the project or other suitable support in such a way that, failure of the scaffold support does not cause failure of the life-line support, the life-line is free from danger of chafing on any sharp edge, and if the person should fall, he will be suspended at a distance of not more than five feet from the place where he was working.

Exception

(10) Subsection 9 does not apply to a part of a suspended scaffold which is designed, constructed and maintained in such a way that the failure of one support or one suspension will not cause the collapse of the part of the scaffold directly or by progressive collapse of the other supports or suspensions.

Outrigger
scaffolds

- (11) An outrigger scaffold shall have,
 - (a) the platform commencing within three inches of the wall; and
 - (b) outrigger beams which are well secured against horizontal and vertical movement.

- (12) A ladder jack scaffold shall, Ladder jack
scaffolds
- (a) have ladder jacks that transmit their load directly to the ladder side rails;
 - (b) not be used to provide a working platform more than ten feet above a floor, roof or any other surface supporting the ladders; and
 - (c) not be used where the distance between the ladders exceeds ten feet.
- (13) A mobile scaffold mounted on casters or wheels shall, Mobile
scaffolds
- (a) where the height of the scaffold exceeds three times its least lateral dimension measured at the base, be equipped with outriggers, guy wires or other positive means to prevent overturning;
 - (b) be equipped with a suitable braking device on each wheel;
 - (c) have the brakes applied when any person is on the scaffold or scaffold platform; and
 - (d) not be moved when a person is on the scaffold or scaffold platform except when every person on the scaffold is using a safety belt in a similar manner to that prescribed in subsection 9 for a person on a suspended scaffold. 1970, c. 79, s. 2, *part*.

FORMWORK AND FALSEWORK

596.—(1) Every structure and every part of a structure for the purpose of forming concrete shall be designed, constructed, supported and braced to safely withstand all loads likely to be applied to it before, during and after the placing of concrete. Concrete
forms, etc.,
when
adequate

- (2) Where shores are used, Where
shores
used
- (a) the bracing required by subsection 1 shall include sufficient bracing in the vertical and horizontal planes to prevent lateral movement of the formwork and buckling of the shores; and
 - (b) footings for shores shall be sound, rigid and capable of carrying the maximum load without excessive settlement or deformation.

(3) Where shoring is more than one tier in height, the junction of each tier shall be braced to prevent any lateral movement. Shoring
in tiers

(4) Without limiting the generality of subsection 1, where falsework consists of shoring more than one tier in height or is a framed structure, Idem

- (a) such falsework shall be designed by a professional engineer to safely withstand the loads mentioned in subsection 1;

- (b) the drawings of such falsework shall be prepared and shall,
 - (i) show the size and specifications of the falsework, including the type and grade of all materials for its construction,
 - (ii) bear the seal or signature of the professional engineer, and
 - (iii) be kept at the project at all times while the falsework is being constructed or used; and
- (c) such falsework shall be constructed in accordance with the drawings prescribed in clause *b* and any revisions shall be countersigned by the professional engineer mentioned in clause *a*.

Removal
of forms

- (5) Removal of falsework and formwork shall not be commenced until the concrete has attained sufficient strength to be,
 - (a) self-supporting, or
 - (b) capable of being adequately supported by reshoring. 1970, c. 79, s. 2, *part*.

DEMOLITION

Precautions
to be taken

597.—(1) No person shall commence or continue to demolish, dismantle or move a building or other structure until such times as,

- (a) he has taken steps to prevent injury to any person in or near the project or the adjoining property; and
- (b) all existing gas, electrical and other services that are likely to endanger the safety of persons having access to the building or other structure have been properly shut off and disconnected.

Standing on
walls, etc.,
prohibited

(2) No person shall stand on top of a wall, pier or chimney to remove material therefrom, unless safe flooring or adequate scaffolding or staging is provided on all sides not more than ten feet below his place of working.

Require-
ment as to
scaffolding

(3) Scaffolding shall be made self-supporting to be independent of that portion of the project being demolished.

Application
of section

- (4) This section applies to demolition by,
 - (a) a heavy weight suspended by cable from a crane or other hoist machine;
 - (b) a power shovel, bulldozer or other vehicle;
 - (c) any other powered mechanical device;
 - (d) explosives; or
 - (e) any combination of the foregoing.

(5) The person in charge of demolition shall ensure that no person except his employees directly engaged on the demolition described in subsection 4, enters a demolition zone, Duty of person in charge

(a) having its centre at the point of demolition; and

(b) having a horizontal radius equal to one and a half times the height of the project, or portion of the project being demolished.

(6) The controls of a mechanical device for demolishing a project shall be operated from a safe location which shall be as remote as is practicable from the demolishing operation. Controls of mechanical devices

(7) Where a swinging weight is used for demolishing, the supporting cable shall be of such length or so restrained that the weight will not swing against any structure other than the structure being demolished. Swinging weights

(8) Before demolition commences, glass shall be removed from windows and other locations on the project or otherwise protected so that there is no possibility of breakage of the glass at any stage of the demolition. Glass

(9) Demolition shall proceed systematically from the highest to the lowest point of the project. Method of working

(10) In a skeleton structure frame building, the skeleton structural frame may be left in place during the demolition or dismantling of the masonry if the masonry and any loose material is removed from the skeleton structural frame in the order prescribed in subsection 9. Idem

(11) The work above each tier or floor shall be completed before the safety of its supports is impaired by the demolition or dismantling operations. Idem

(12) Where work on a building or structure being demolished or dismantled is suspended or discontinued prior to the completion of the demolition or dismantling, access to the part that has still to be demolished or dismantled shall be prevented by the installation of fencing or other equally effective barriers. Where work suspended or discontinued

(13) A truss, girder or other structural member shall not be disconnected until it has been relieved of all loads except its own weight and has been temporarily supported. Girders

(14) Masonry walls shall be removed in reasonably level courses. Masonry walls

(15) Materials shall not be loosened or permitted to fall in such masses as to endanger the structural stability of a floor or other support of the project or of any scaffold. Falling materials

(16) A basement, cellar or excavation on a project being demolished or dismantled shall be backfilled to grade upon Basements to be backfilled

completion of the demolition or dismantling unless the open edges of the basement, cellar or excavation are protected by adequate fencing.

Exception

(17) Subsection 16 does not apply to a basement or cellar which has a roof, floor or other solid covering over it and all openings are boarded up to prevent access to the basement or cellar. 1970, c. 79, s. 2, *part*.

EXPLOSIVE ACTUATED FASTENING TOOLS

Fastening
tools

598.—(1) An explosive actuated fastening tool shall,

- (a) be operated only by an authorized person who has been duly instructed in the use of the equipment according to the manufacturer's specifications and recommendations;
- (b) be operated only in accordance with the manufacturer's approved recommendations;
- (c) be inspected by the operator before use to ensure that it is clean and in all ways suitable for use;
- (d) not be left unattended in a place where it might be available to an unauthorized person;
- (e) be stored in a locked container.

Explosive
loads

(2) Explosive loads shall,

- (a) be suitably identified;
- (b) be stored in separate compartments if of varied strength;
- (c) be stored in a locked container; and
- (d) not be left unattended in a place where they may be available to unauthorized persons. 1970, c. 79, s. 2, *part*.

CONSTRUCTION HOISTS

Interpre-
tation

599.—(1) In this section and in sections 600 to 604,

- (a) "attendant" means a person who is stationed on the conveyance or at its landing places and has control of any movement of the conveyance of the hoist as whole or part of his duties;
- (b) "chimney hoist" means a hoist used for hoisting or lowering persons or materials in or without a chimney;
- (c) "concrete bucket hoist" means a construction hoist used for hoisting or lowering concrete only;
- (d) "construction hoist" means a mechanism for use in connection with the construction, maintenance or dem-

olition of a building, structure or other work on surface of a mining property,

- (i) for hoisting or lowering materials or persons or both, and
 - (ii) equipped with a conveyance that moves in guides during its vertical movement, and includes its hoistway and hoistway enclosure;
- (e) "materials hoist" means a construction hoist used for hoisting or lowering materials only;
- (f) "operator" means a person who is stationed at the driving unit of a construction hoist and has direct control of any movement of the conveyance of the hoist as the whole or part of his duties;
- (g) "permit" means a permit granted under this section to operate a construction hoist under specific loadings;
- (h) "user" means the person in charge of a construction hoist as owner, lessee or otherwise, but does not include an operator or attendant as such;
- (i) "workmen's hoist" means a construction hoist used for hoisting or lowering persons or materials.

(2) The specifications for a construction hoist and its equipment, and the general arrangement of the installation including location, tower and hoistway, shall be submitted to the chief engineer for approval and no installation shall be made until such approval has been received. Specifications to be approved

(3) The second or any subsequent installation on the same property of a construction hoist and hoistway, originally approved by the chief engineer, may be made on the approval of the district electrical-mechanical engineer, without the submission of plans and specifications, after he has inspected the site. Specifications of subsequent installations

(4) Every construction hoist shall have tests conducted to prove the safe operation of all brakes, clutches, safety devices and controls, before being put into operation at a new location and thereafter, at such intervals as to ensure safe operation. Tests

(5) The results of such tests shall be recorded in the Machinery Record Book and made available to the district electrical-mechanical engineer. Idem

(6) No construction hoist shall be put into operation until a permit showing the maximum allowable loadings for persons or materials has been obtained from the district mining engineer, and such permit shall be displayed in a conspicuous place in the hoisting area. Maximum load permits

(7) Where the permit for a construction hoist does not designate the capacity in terms of persons, or persons and pounds, the Notice

user of the hoist shall furnish and display a notice in the conveyance or other load carrying unit of the hoist setting forth in letters not less than two inches high the words "No person shall ride in or on this conveyance".

Idem (8) The prohibition contained in the notice mentioned in subsection 7 applies to every person except a person engaged in the lubrication, repair, erection, dismantling or maintenance of a construction hoist.

Where operator and attendant required (9) Where a construction hoist has a driving unit that is not directly controlled by a device installed in the conveyance or at each landing of the hoistway, there shall be,

(a) an operator at all times; and

(b) an attendant in the conveyance or at each landing of the hoistway when persons are being conveyed.

Operators must be qualified (10) Where an operator is required for the operation of a construction hoist, he shall, if required, possess a certificate of qualification.

Attendants must be experienced (11) Where an attendant is necessary for the operation of a construction hoist, the attendant shall have attained the age of eighteen years and shall have had adequate training and experience to perform his duties safely.

Safety of persons (12) Every construction hoist and all equipment used in connection therewith shall be so designed, installed and maintained that the safety of persons being carried or being near shall be ensured at all times.

Load capacity certificate (13) The owner or user of a construction hoist shall provide a certificate from the manufacturer or an independent person approved by the chief engineer showing the maximum allowable weight that the hoist is capable of handling.

Protection of hoist operators and hoists (14) The operator of a construction hoist and the hoist shall be adequately protected against falling objects and other hazards consistent with the project.

Idem (15) The installation shall be so arranged that the hoist operator will have the maximum practicable view of the tower.

Idem (16) The building housing the hoist shall be adequately lighted.

Idem (17) The machine area, tower landings and pit shall be kept free of building materials, debris, and equipment not required for the hoist.

Idem (18) Flammable fuels, oil or other readily combustible materials shall be stored away from the hoist area.

(19) The main overhead beams at the top of the tower and the immediate members supporting the beams shall,

Main
overhead
beams of
hoist towers

- (a) be of steel; and
- (b) safely support the loads likely to be imposed thereon, including,
 - (i) twice the maximum load on the ropes suspended from the overhead beams, and
 - (ii) the weight of the overhead beams and machinery thereon, and
- (c) be rigidly and safely supported at each end.

(20) A construction hoist tower shall,

Hoist
towers

- (a) be of steel;
- (b) safely support the loads likely to be imposed upon it, including,
 - (i) twice the maximum static load suspended from the overhead beams,
 - (ii) any loads due to a hoist boom or concrete bucket chute,
 - (iii) the weight of the tower, and
 - (iv) loads due to wind and ice;
- (c) be supported upon a safe, firm, level foundation such that the tower will remain in vertical alignment and the bearing capacity of the soil will not be exceeded by the maximum load from the tower, the hoist and its load;
- (d) extend above the top landing so that, when the conveyance is at the top landing, ten feet of overhead clearance will be provided from the topmost part of the conveyance to the lowest part of the tower or machinery over the hoistway;
- (e) not be located wholly or partially in front of an entrance to a building;
- (f) be plumb;
- (g) be securely braced or guyed to the building or to other adequate anchorage at vertical spacings of not over forty feet; and
- (h) have each guy wire of steel, a quarter of an inch or larger in diameter, securely attached at each end with rope clips, and with a turnbuckle to adjust its length.

(21) Where part of a building or structure is used for a hoist foundation, it shall be constructed or reinforced to withstand any load that is likely to be placed upon it, and any space beneath a hoist foundation shall be enclosed to prevent any person from entering therein.

Foundations

Access to sheaves (22) Safe means of access to the overhead sheaves shall be provided by a ladder from the highest landing of the tower.

Assembling steel (23) In the assembling of the segments of steel hoist towers, connections shall be made with bolts, pins or special devices to prevent the connections from accidentally disengaging.

Counter-weight runways (24) Where the counterweight runway is located within 36 inches of the building floor or landing, the entire length of the runway adjacent to the building shall be screened with wire mesh (16 gauge) that will reject a ball one and one half inches in diameter.

Counter-weight guards (25) Counterweight guards shall consist of a metal frame and No. 16 gauge sheet steel, or plywood three-quarters inch thick, properly reinforced and braced, and securely fastened in position.

Idem (26) Guards shall be installed on all counterweight runways in the open side or sides at grade or working levels and extend to a height of at least eight feet above that level. 1970, c. 79, s. 2, *part*.

Hoistways **600.**—(1) The hoistway of a construction hoist shall be enclosed,

- (a) on sides not facing conveyance entrances at the lowest landing to a height of at least six feet; and
- (b) on sides facing conveyance entrances, from the top of each landing opening to the underside of the next landing above or to the top of the hoistway,

with No. 16 gauge wire mesh rejecting a ball one and a half inches in diameter and the mesh shall be securely fastened to the tower.

Where enclosure not required (2) The enclosure described in clause *b* of subsection 1 may be omitted where the conveyance is equipped on its entrance sides with a door of the vertically sliding or horizontal-swinging type,

- (a) extending from within two inches of the conveyance floor to a height of not less than five feet;
- (b) consisting of a metal frame and No. 16 gauge wire mesh that rejects a ball one and a half inches in diameter; and
- (c) equipped with a positive locking device.

Wire mesh (3) A hoistway within a building shall be fully enclosed, except at landing entrances, with No. 16 gauge wire mesh rejecting a ball one and a half inches in diameter or with substantial building materials having equivalent strength and openings.

Pits (4) The hoistway pit shall be deep enough to allow the conveyance platform or bucket to descend to the proper level required for smooth loading and unloading at the lowest landing.

(5) A substantial gate shall be provided at each entrance to the hoistway of a construction hoist and shall,

Requirements for
hoistway
gates

- (a) extend from within two inches of floor level to a height of six feet;
- (b) be of the vertically-lifting or horizontally-sliding type, or one-section horizontally-swinging type;
- (c) not be of the vertically-collapsible type;
- (d) reject a ball one and a half inches in diameter;
- (e) be located between two and four inches of the landing platform; and
- (f) provide minimum headroom clearance of six feet six inches when in the open position.

(6) A counterweight for a gate shall be so enclosed that it will be retained if its means of suspension fails.

Counter-
weights

(7) Each gate shall be equipped with a mechanical latch to keep the gate in the closed position.

Latches

(8) Each landing gate shall be equipped with an electric contact switch that will turn on a light to indicate to the hoist operator when the gate is fully closed.

Contact
light
switches

(9) A substantial landing platform shall be provided at each entrance to the hoistway of a construction hoist and shall,

Landing
platforms

- (a) be securely fastened and safely supported at each end; and
- (b) be at least equal in width to the hoistway entrance and have, except at the lowest landing, for at least five feet to each side, a guard railing forty-two inches in height and a toe-board five inches in height, with the space between the railing and the toe-board filled in completely and securely with No. 16 gauge wire mesh that rejects a ball one and a half inches in diameter or equal enclosure. 1970, c. 79, s. 2, *part*.

601.—(1) The conveyance of a construction hoist shall,

Conveyances

- (a) be designed using a factor of safety of not less than five, based upon static loads and ultimate stresses of the materials;
- (b) adequately support fifty or more pounds per square foot of conveyance floor area;
- (c) operate in steel guides that will adequately withstand, without permanent deformation or damage, the application of the safety devices;

- (d) be equipped with approved guide shoes or rollers adjusted to provide only the necessary running clearance between the shoes and the guide rails;
- (e) be equipped with a safety device that will stop and sustain the conveyance when loaded to its maximum capacity should the means of suspension fail;
- (f) be located so that the clearance between the conveyance platform and the landing sill is not less than three-quarters of an inch and no more than two inches;
- (g) be enclosed on each non-entrance side with a toe-board five inches in height and with No. 16 gauge wire mesh extending at least six feet in height above the conveyance floor and rejecting a ball one and a half inches in diameter or shall be enclosed with solid material of adequate strength;
- (h) have an adequate hood, part of which may be hinged, composed of No. 10 gauge wire mesh rejecting a ball one and a half inches in diameter or composed of solid material of equivalent strength;
- (i) be equipped with a door or doors at least five feet in height above the conveyance floor, when used for the handling of persons, and so arranged that the doors can not open outward;
- (j) be equipped when conveying persons with safety devices activated by governors arranged to trip at 25 per cent above normal operating speed.

Cleats and
blocks

(2) Where a wheelbarrow or other rolling equipment is to be transported, restraining cleats or blocks shall be provided on the conveyance platform.

Counter-
weights

(3) All counterweights shall have their sections strongly bolted together, shall be so placed that they cannot fall on any part of the machinery and shall be suspended in guides in such a manner that they will run freely. 1970, c. 79, s. 2, *part*.

Hoist
ropes

602.—(1) The hoisting rope or ropes of a construction hoist shall,

- (a) safely support the maximum static load to be imposed upon it without exceeding the ultimate breaking strength of the rope divided by the factor of safety for a construction hoist rope as set forth in the table in clause *k*;
- (b) be not less than one half inch in diameter and composed of not less than six strands each of nineteen steel wires;
- (c) where used on a drum hoist have at least three complete turns of rope on the drum when the conveyance is at its lowest point of travel;

- (d) be examined daily for kinks, broken wires or other physical defects;
- (e) be properly dressed and maintained in a safe working condition;
- (f) be protected from falling material and shall have rope-ways maintained free of all material;
- (g) not cross over or under ropes from other hoists;
- (h) not be spliced;
- (i) not encircle or be supported or guided by a sheave or drum whose diameter is less than twenty-four times the diameter of the rope in use;
- (j) be securely anchored at each end by approved means;
- (k) provide a factor of safety, when considering the static loadings involved, not less than required in the following table:

TABLE
Minimum Factors of Safety for Hoisting Ropes

Rope Speed (Feet per Minute)	Minimum Factor of Safety		Rope Speed (Feet per Minute)	Minimum Factor of Safety	
	Workmen's Hoist	Materials Hoist		Workmen's Hoist	Materials Hoist
50	7.60	6.65	300	9.20	8.20
75	7.75	6.85	350	9.50	8.45
100	7.95	7.00	400	9.75	8.70
125	8.10	7.15	450	10.00	8.90
150	8.25	7.30	500	10.25	9.15
175	8.40	7.45	550	10.45	9.30
200	8.60	7.65	600	10.70	9.50
225	8.75	7.75	650	10.85	9.65
250	8.90	7.90	700	11.00	9.80

(2) Where practicable, travelways and walkways shall be ^{Travelways} routed clear of ropes and the hoistman's view of the hoistway, but in any event, a safe travelway shall be provided.

(3) No used rope shall be installed anew or used on a newly ^{Used ropes} installed hoist until its condition has been proven satisfactory by examination, electro-magnetic test, laboratory test or combination of these tests as required by the district electrical-mechanical engineer.

Broken
wires in
ropes

(4) No rope shall be used where more than 5 per cent of the total number of wires in any one lay of the rope are broken, or where visual inspection shows evidence of severe wear, corrosion, kink, or other possible cause of rope failure. 1970, c. 79, s. 2, *part*.

Signals

603.—(1) Electrical or mechanical means of signalling the operator of a construction hoist shall be provided at each landing,

- (a) where the travel of the conveyance is more than thirty-five feet; or
- (b) where the hoist operator does not have a clear view of the landing.

Code

(2) The following code shall be used to give signals to a hoist operator:

1 signal—Stop immediately if in motion

1 signal—Hoist.

2 signals—Lower.

*3 signals—Persons will be on conveyance, operate carefully.

*(This signal to be given before persons enter the conveyance).

Voice
communica-
tion

(3) Where the operator does not have a clear view of all the hoistway landings, the operator shall have voice communication with each landing, but movement of the conveyance shall be made upon signal only.

Voltage

(4) The voltage of the signal system shall not exceed 30 volts. 1970, c. 79, s. 2, *part*.

SPECIFICATIONS

Specifica-
tions

604.—(1) Every construction hoist shall be,

- (a) equipped with a permanent tag or nameplate showing the horse power of the driving unit;
- (b) securely fastened to its foundation;
- (c) equipped with a brake or brakes that will stop and hold the conveyance when 150 per cent loaded, at every position in the hoistway;
- (d) if electrically driven, so arranged that the brake or brakes will be applied automatically in case of power failure;

- (e) if of a drum winder type, equipped with drum flanges of a height sufficient to provide a clearance of not less than twice the nominal diameter of the rope above the top layer of rope on the drum;
- (f) equipped with a device to indicate to the operator,
 - (i) position of conveyance in the hoistway,
 - (ii) limits of travel,
 - (iii) position at which underwind and overwind protective devices operate, and
 - (iv) position of all points at which landings may be made;
- (g) when the hoisting drum is of the free-running type, equipped with a pawl or other device that will hold the conveyance with its maximum load at any point in the hoistway;
- (h) provided with a disconnect switch at each location, wired in series, when the machine and the controller are in separate locations;
- (i) equipped with limit switches;
- (j) properly guarded to prevent injury to persons from gearing, shafting or other equipment;
- (k) capable of lifting the conveyance and its maximum allowable load, and it shall not be loaded beyond its rated capacity;
- (l) not operated until the hoistway is provided with adequate overwind and underwind clearance;
- (m) not used for the transportation of men at any time, unless equipped as a workmen's hoist.

(2) Every workmen's hoist, in addition to the requirements of section 599, shall be,

Workmen's
hoists
additional
require-
ments

- (a) equipped with two or more ropes;
- (b) equipped with overwind and underwind limit switches activated by the movement of the conveyance or counterweight, and in the latter case, the overwind protective device may be located at the lower end of travel;
- (c) equipped with a speed control device which shall automatically return to the "off" or "neutral" position when released;
- (d) equipped with a slack rope device, a reverse phase relay and a stop motion switch where the hoist is of the drum winding type;

- (e) so arranged that the brake or brakes shall be applied automatically in case of failure of electrical supply to the safety circuit, and one brake shall be mechanically applied and electrically released;
- (f) so arranged that the power unit shall drive the hoist drum when the conveyance is being raised or lowered and no mechanism for disconnecting the hoist drum from the power unit shall be available;
- (g) not used for the purpose of handling men and materials simultaneously with the exception of hand tools;
- (h) not operated until the hoistway is provided with,
 - (i) buffers in the pit,
 - (ii) a counterweight guard at the bottom of the hoistway, and
 - (iii) an electro-mechanical interlock on each landing gate or a means to lock the gate mechanically so that it cannot be opened from the landing side unless the conveyance is at the landing, but at the lowest landing means of unlocking the gate from the landing side shall be provided;
- (i) inoperable unless the conveyance doors and hoistway gates at all landings are fully closed;
- (j) so arranged that control of the movement of the conveyance shall be by a conveyance-switch or push-button located in the conveyance with or without a push-button at each landing;
- (k) provided with a Machinery Record Book in which shall be recorded inspections, tests, and other data as required.

Concrete
bucket
hoists

(3) The requirements of this Part applicable to construction hoists apply also to concrete bucket hoists, except that a conveyance safety device shall not be required.

Idem

(4) No person shall ride in or on a concrete bucket, except any person engaged in maintenance or repair work.

Chimney
hoists

(5) The plans and specifications for chimney hoists and the general arrangements of the installation shall be submitted to the chief engineer for approval before being put into use.

Tower
booms

(6) The bottom fastening of a boom to the tower shall be located at a level where guy ropes are fastened at horizontal girts, and the upper fastening for the boom shall be located at a distance not less than one-half the length of the boom above its bottom

fastening and at a level where guy ropes are fastened at horizontal girts.

(7) The boom and its associated equipment shall be of an approved design and construction and operated in a safe manner.

(8) A qualified person shall be in charge of the operation of the boom. 1970, c. 79, s. 2, *part*.

GENERAL

605.—(1) No person shall wilfully damage or, without proper authority, remove or render useless any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam gauge, water gauge, safety valve, electrical equipment, fire-fighting equipment, first-aid equipment or other appliance or thing provided at a mine or plant in compliance with this Act. Wilful damage to property

(2) No person under the influence of or carrying intoxicating liquor shall enter a mine or be in the proximity of a working place on the surface or near machinery in motion. Persons under the influence of or carrying liquor

(3) Abstracts of the provisions of this Act, authorized by the chief engineer, shall be posted up in suitable places at the mine or works where they can be conveniently read, and the owner, agent or manager of the mine shall maintain such abstracts duly posted, and the removal or destruction of any of them is an offence against this Act. Abstracts to be posted

(4) The owner, agent or manager of a mine or plant shall maintain a copy or copies of Parts IX and XI of this Act at each mine or plant and such Parts shall be available for reference on request by any employee. Act available

(5) The owner, agent or manager of a mine or plant shall maintain a notice at each mine or plant in suitable places setting out the name, address and telephone number of the district engineer for the mine or plant. Name of district engineer posted

(6) The Minister may prescribe the charge to be made for any record or log book required under this Part. 1970, c. 79, s. 2, *part*. Charges

TESTING LABORATORIES

606. The Minister may, out of the moneys that are appropriated for the purpose, establish, maintain and operate one or more laboratories for the purpose of testing or examining hoisting ropes or other appliances used in or about a mine and, by regulations made by the Lieutenant Governor in Council, may provide for, Testing laboratories

(a) the management and operation of such laboratory or laboratories;

- (b) the charges to be paid for services performed in such laboratory or laboratories;
- (c) such other purposes as the Lieutenant Governor in Council considers proper. 1970, c. 79, s. 2, *part*.

PARTY WALLS

Boundary operations

607.—(1) Subject to section 203 and except by agreement under subsection 3, no mining operations shall be carried on within a distance from the property boundary of a mine or mining property of twice the width or thickness of the orebody at the boundary, measured parallel to the boundary from foot wall to hanging wall and normal to the dip, and in no event shall mining operations be carried on within a distance of twenty feet from the boundary measured from the perpendicular to the boundary,

- (a) except that, for the purposes of preliminary investigation, development headings may be advanced to twenty feet from the boundary; and
- (b) except that exploratory diamond drilling may be done.

Exception

(2) Subsection 1 does not apply to operations at sand, gravel or clay pits or open-cast rock quarries.

Agreement by adjoining owners or their agents

(3) Adjoining owners or their agents may, by agreement in writing signed by them, carry on mining operations within the distances from the property boundary mentioned in subsection 1.

Certified copies to chief engineer

(4) Two certified copies of every such agreement shall be sent to the chief engineer. 1970, c. 79, s. 2, *part*.

Disagreement on boundary operations

608.—(1) Where adjoining owners or their agents are unable to agree to carry on mining operations within the distances from the property boundary mentioned in subsection 1 of section 607, application may be made to the Minister by either owner or his agent requesting the appointment of a committee to investigate in what manner and within what distances from the boundary mining operations may be carried on.

Appointment of committee

(2) Upon receipt of an application under subsection 1, the Minister may appoint a committee of three disinterested persons, one of whom shall be designated chairman, who are competent to investigate mining conditions at the boundary.

Duty of committee

(3) The committee so appointed shall hear representations from the adjoining owners and conduct such investigation of mining conditions on the adjoining mining properties as may be necessary at a time or times named by the Minister.

Report of committee

(4) Upon completion of their investigation, the committee shall forthwith submit a report in writing to the Minister with recommendations concerning terms and conditions of mining operations at the boundary.

(5) Upon receipt of the report of the committee, the Minister may issue an order establishing the terms and conditions to be observed in mining operations at the boundary and shall fix the costs of the committee to the adjoining owners. 1970, c. 79, s. 2, *part*.

Order of
Minister

609.—(1) Where the owner or his agent of a mine or mining property has reason to believe that a breach has been made in or a trespass has been committed with respect to the party wall between his mine or mining property and an adjoining mine or mining property, application may be made to the Minister by the owner for the appointment of a committee to examine the party wall and enter the adjoining mines or mining properties with an assistant or assistants and use where necessary the workings and appliances thereof.

Suspected
breach or
trespass of
party wall

(2) Upon receipt of an application under subsection 1, the Minister may appoint a committee of three disinterested persons, one of whom shall be designated chairman, who are competent to conduct such examination of the party wall as may be necessary.

Appoint-
ment of
committee

(3) The committee so appointed shall conduct such examination of the party wall as may be necessary at a time or times named by the Minister.

Duty of
committee

(4) Upon completion of the examination the committee shall forthwith submit a report of its findings in writing to the Minister.

Report of
committee

(5) Upon receipt of the report of the committee, the Minister shall fix the costs of the committee to one or both owners.

Costs

(6) Where a breach has been made in a party wall of a mine by the owner of an adjoining mine, or by his employees or agents, without the permission in writing of the owner of the first-mentioned mine or without authority under this Act, the Minister may make an order directing the offending owner to close the breach permanently or to carry out such measures as the Minister considers necessary to prevent water from flowing into the mine of the owner complaining of the breach.

Breach of
party wall

(7) Where work has been discontinued in the mine of the offending owner or where expedient for any other reason, the Minister may authorize the owner complaining of the breach, his employees or agents, to enter the mine and works of the offending owner to erect bulkheads and carry out such measures as the Minister considers necessary to protect from damage the mine of the owner complaining of the breach and his employees and agents from danger from accumulations of water in the mine of the offending owner. 1970, c. 79, s. 2, *part*.

Minister
may
authorize
entry

Minister
may vary or
rescind
order

610. For good cause shown and upon such terms as seem just, the Minister may vary or rescind an order made under section 608 or 609. 1970, c. 79, s. 2, *part*.

BRINE WELLS

Interpre-
tation

611.—(1) In this section,

- (a) “brine well” means a hole or opening in the ground for use in brining;
- (b) “brining” means the extraction of salt in solution by any method.

Permit to
bore or drill
a brine well

(2) No person shall drill or bore a brine well except under the authority of a permit in writing issued by the chief engineer upon application therefor in the prescribed form.

Permits not
issued

(3) A permit shall not be issued,

- (a) to authorize a person to drill or bore a brine well on property in which he does not own, hold or lease, or is not otherwise entitled to, the mining rights; or
- (b) where the proposed brine well is nearer the boundary of such property than 500 feet.

Location of
brine well

(4) The chief engineer may reduce or extend the distance referred to in clause *b* of subsection 3 where in his opinion it is advisable to do so and shall notify the applicant of any such reduction or extension within thirty days from the date upon which the application for the permit is filed.

Condition
of permit

(5) A permit is subject to the condition that the brine well in respect of which it is issued is bored or drilled in the location described in the permit.

Time for
issuance of
permit

(6) A permit shall be issued or refused within thirty days from the date on which the application therefor is filed, except that, where notice has been given by the chief engineer under subsection 4, the permit shall be issued upon the receipt by the chief engineer of the applicant's consent thereto.

Log of
drilling
operations

(7) Where a person drills or bores a brine well, he shall forward a log of the drilling or boring in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the drilling or boring operations, and, upon his request in writing, the log shall be confidential for a period of six months.

Protection
of water
horizons

(8) A person boring or drilling a brine well shall take such reasonable measures as are necessary to control the infiltration of water from one horizon to any other horizon that may be penetrated during the drilling or boring operations.

Protection
of deposits

(9) All brine wells shall be cased and equipped so as to reasonably ensure against the uncontrolled flow of oil, natural gas, brine or water.

(10) Casing and equipment shall be in good condition and of a thickness and strength adequate to withstand any fluid pressure to which they might normally be subjected. Standard of casing and equipment

(11) Where practicable, all brine wells shall be plugged by the person operating them, before being abandoned, in a manner that will, Plugging of abandoned wells

(a) reasonably ensure that salt horizons and potential oil or natural gas producing horizons are protected; and

(b) retain water and brine in their original formations.

(12) Before commencing to plug a brine well, the person proposing to carry out the plugging operations shall report the particulars thereof to the chief engineer in the prescribed form. Report of proposed plugging

(13) Where a person plugs a brine well, he shall forward a record of the plugging in the prescribed form in duplicate to the chief engineer within thirty days of the completion of the plugging operations. 1970, c. 79, s. 2, *part*. Record of plugging operations

FATAL ACCIDENTS

612.—(1) The manager or other person in charge of a mine or plant wherein or in connection wherewith a fatal accident occurs shall forthwith notify a coroner having jurisdiction in the place where the accident occurred. Notice

(2) Where a fatal accident occurs in or in connection with a mine or plant, an inquest shall be held. Inquest

(3) The engineer and any person authorized to act on his behalf are entitled to be present and to examine or cross-examine any witness at an inquest held concerning a death caused by an accident at a mine or plant, and, if the engineer or someone on his behalf is not present, the coroner shall, before proceeding with the evidence, adjourn the inquest and give the Deputy Minister not less than four days notice of the time and place at which the evidence is to be taken. Right of engineer re inquest

(4) Where, in or about a mine, plant, quarry, or sand, clay or gravel pit, an accident occurs that causes loss of life to a person employed thereat, the owner, agent, manager or superintendent thereof shall immediately notify the engineer resident in that part of Ontario in which the accident occurred and the chief engineer by telephone or telegraph. Notice of fatal accidents

(5) Subject to subsection 6, no person shall, except for the purpose of saving life or relieving human suffering, interfere with, destroy, carry away or alter the position of any wreckage, article or thing at the scene of or connected with the accident until the engineer has completed an investigation of the circumstances surrounding the accident. Scene to be undisturbed

Permission
to alter
scene

(6) Where it is impossible for the engineer to make an immediate investigation of an accident, the chief engineer or engineer may permit the wreckage, article and things at the scene of or connected with the accident to be moved to such extent as is necessary to permit the work of the mine, plant, quarry, or sand, clay or gravel pit, to be proceeded with, if photographs or drawings showing details of the scene of the accident have been made prior to the moving. 1970, c. 79, s. 2, *part*.

NON-FATAL ACCIDENTS

Notice

613. Where, in or about a mine, plant, quarry, or a sand, clay or gravel pit, an accident occurs to a person employed therein that causes fracture or dislocation of any bones of the body, or any other injury that in the opinion of the attending physician may result in the injured person being incapacitated for regular work for at least one day, the owner, agent or manager shall within three days of the accident send notice in writing to the engineer resident in that part of Ontario in which the mine, plant, quarry or pit is situate on the form prescribed for such purpose. 1970, c. 79, s. 2, *part*.

SPECIAL OCCURRENCES

Notice

614.—(1) Where, in or about a mine or plant,

- (a) an accident involving the hoist, sheaves, hoisting rope, shaft or winze conveyance, or shaft or winze timbering;
- (b) an explosion or fire involving an air compressor, air receiver or compressed air line;
- (c) an inrush of water from old workings or otherwise;
- (d) a failure of an underground dam or bulkhead, as defined by subsection 1 of section 286,
- (e) an outbreak of fire below ground or an outbreak of fire above ground if it endangers any structure of the mine plant;
- (f) a premature or unexpected explosion or ignition of explosives or blasting agents;
- (g) an asphyxiation effecting a partial or total loss of physical control;
- (h) a flammable gas in the mine workings;
- (i) an unexpected and non-controlled extensive subsidence or caving of mine workings; or
- (j) a failure or incident which causes, or threatens to cause, injury to personnel or damage to major equipment or property involving,
 - (i) electrical equipment,

- (ii) standard gauge railway equipment, or
- (iii) crane equipment,

occurs, whether or not loss of life or personal injury is caused thereby, the owner, agent or manager of the mine shall, within the twenty-four hours next after the occurrence, send notice in writing in duplicate to the engineer resident in that part of Ontario in which the mine or plant is situate and shall furnish, upon request, such particulars in respect thereof as the engineer requires.

(2) Where, in or about a mine, an outbreak of fire occurs that endangers the health or safety of one or more persons and the services of the mine rescue stations are required, the manager shall immediately notify the mine rescue training officer and the district mining engineer resident in that part of Ontario in which the mine is situate.

Notice of
fire and
need of
rescue
equipment

(3) When a rockburst occurs, whether or not loss of life or personal injury is caused thereby, and its location is determined as being within the workings of a mine, the manager of the mine shall, within the twenty-four hours next after the location of the burst has been determined, send notice in writing to the district mining engineer resident in that part of Ontario in which the mine is situate and shall furnish, upon request, such particulars with respect thereto as the engineer requires.

Rockburst

(4) A record of the occurrence of all rockbursts at a mine shall be kept, showing, as far as possible, the time, location, extent of the burst, any injury to persons and any other information pertaining to the burst, and such record shall be available to the district mining engineer at all times. 1970, c. 79, s. 2, *part*.

Record of
rockbursts

OTHER NOTICES AND INFORMATION

615.—(1) The owner or agent of a mine or plant shall give or cause the manager to give to the chief engineer and to the district mining engineer resident in that part of Ontario in which the mine or plant is situate, written notice of,

Written
notice by
owner or
agent

- (a) (i) the intended installation of, including the specifications and layout of,
 - 1. any mine hoisting facilities,
 - 2. any power supply facilities, and
 - 3. any ore treatment facilities,
 - (ii) the lot, concession and township on which the operations are to commence,
 - (iii) the name and address of the person in charge;
- (b) the connection or reconnection of any mining electrical equipment with a source of electrical energy controlled

by any other person, at least fourteen days prior to the connection or reconnection;

- (c) the commencement, or resumption after an interruption of one month or more, of mining operations, within fourteen days after the commencement or resumption; and
- (d) the closing down of the mine and that,
 - (i) the requirements of subsection 2 of section 176 as to the fencing of the top of the shaft, entrances from the surface, pits and openings,
 - (ii) the requirements of section 297 as to the disposal of explosives and blasting agents,
 - (iii) the requirements of section 359 as to the abandonment of a shaft compartment for hoisting purposes and as to the removal and disposition of hoisting ropes,
 - (iv) the requirements of section 433 as to the disconnection of the supply station from the power source and notification of same to the chief engineer, and
 - (v) the requirements of subsections 7 and 8 of section 617 as to the filing of plans and sections,

have been complied with within fourteen days of the closing down.

Information
for
engineer

(2) The owner, agent or manager of a mine or plant shall furnish to the engineer resident in that part of Ontario in which the mine or plant is situate all information that the engineer requires for the purposes of his returns. 1970, c. 79, s. 2, *part*.

STATISTICAL RETURNS

Statistical
returns

616.—(1) For the purpose of their tabulation, under the instruction of the Minister, the owner, agent or manager of every mine, plant, pit, quarry or other works to which this Act applies shall, on or before the 31st day of March in every year, send to the Department on the forms supplied a correct return for the year that ended on the 31st day of December next preceding, showing the number of persons ordinarily employed below and above ground respectively, the total amount of wages paid during the year, the quantity in standard weight of the minerals dressed and of the undressed mineral that has been sold, treated or used during such year, and the value or estimated value thereof, and such other particulars as the Minister by regulation prescribes.

Monthly or
quarterly
returns

(2) The owner, agent or manager of every metalliferous mine shall, if required, make a similar return for the month or quarter at the end of each month or quarter of the calendar year.

(3) Every owner, agent or manager of a mine, plant, pit, quarry or other works who fails to comply with this section, or makes a return that is to his knowledge false in any particular, is guilty of an offence against this Act. 1970, c. 79, s. 2, *part*. Offence

MINE OR PLANT PLANS

617.—(1) At every mine, the owner, agent or manager shall cause the following plans on a scale acceptable to the chief engineer to be kept up to a date not more than six months last past: Plans to be kept

1. A surface plan showing the boundaries of the property, the co-ordinates of the section of property under which mining has been done, all lakes, streams, roads, railways, electric power transmission lines, main pipe lines, buildings, adits, open surface workings, diamond-drill holes, outcroppings of rock, dumps, tailings-disposal sites and shafts, the latter having been geographically located by connection with a survey on record with the Department.
2. The method of capping any opening shall be described on the plans referred to in item 1.
3. Underground plans of each level and section showing all underground workings, including shafts and tunnels, diamond-drill holes, dams and bulkheads, and each level plan shall be shown on a separate drawing.
4. Vertical mine sections at suitable intervals and at suitable azimuths, showing all shafts, tunnels, drifts, stopes and other mine workings in relation to the surface, including the location of the top of the bedrock, surface of the overburden and the bottom and surface of any known watercourse or body of water, and each section shall be shown on a separate drawing.
5. Adequate ventilation plans, showing the direction and volume of the main air currents, the location of permanent fans, ventilation doors and stoppings, and connections with adjacent mines.

(2) The owner, agent or manager of every mine in which electricity is used underground shall keep or cause to be kept up to a date not more than six months last past an adequate plan or diagram showing on a suitable scale the following information: Idem

1. The position of all fixed electrical apparatus in the mine.
2. The routes of all fixed power feeders and fixed branch feeders properly noted and referenced.

3. The rating of all electrical feeder control apparatus and equipment.

Idem

(3) Such plans or diagrams shall be available to the district electrical-mechanical engineer at all times and copies of the plans or diagrams shall be furnished him upon request.

Plans to be available to engineer

(4) On any examination or inspection of a mine or plant, the owner, agent or manager shall, if required, produce to the engineer or other person authorized by the Minister or the Deputy Minister all plans and sections of the workings referred to in subsections 1, 2 and 3.

Marking subsequent progress on plan

(5) The owner, agent or manager shall, if required by the engineer or other person authorized by the Minister or Deputy Minister, cause to be marked on such plans and sections the progress of the mine up to the time of the examination or inspection, and shall furnish him with a copy or tracing thereof.

Plans of working mines to be filed

(6) A certified copy of the plans required by paragraph 3 of subsection 1 and mine sections showing all shafts as required by paragraph 4 of subsection 1 shall be made and forwarded to the chief engineer on or before the 31st day of March in each year, showing the workings of the mine up to and including the 31st day of December next preceding.

Plans to be filed before abandonment

(7) Before a mine or part of a mine is abandoned, closed down or otherwise rendered inaccessible, all underground plans and sections referred to in paragraphs 3 and 4 of subsection 1 shall be brought up to date and two certified copies forwarded, one to the chief engineer, the other to the district mining engineer.

Idem

(8) Before work at a mine ceases, the surface plan referred to in paragraph 1 of subsection 1 showing all openings to underground workings shall be brought up to date and two certified copies forwarded, one to the chief engineer, the other to the district mining engineer.

Responsibility of owner

(9) The owner, agent or manager of every mine, plant, pit, quarry or other works to which this section applies is responsible for compliance with the provisions thereof and every owner, agent or manager or other person who fails to comply with any of the provisions of this section, or who produces to an engineer or other authorized person, or files or causes to be produced or filed, a plan that to his knowledge is false in any particular is guilty of an offence against this Act.

Plans to be treated as confidential

(10) Every such plan shall be treated as confidential information for the use of the officers of the Department and shall not be exhibited, nor shall any information contained therein be imparted to any person except with the written permission of the owner or agent of the mine or plant. 1970, c. 79, s. 2, *part*.

POWERS AND DUTIES OF ENGINEERS

618.—(1) It is the duty of the engineer and he has power, Powers of engineer

- (a) to make such examination and inquiry as he considers necessary to ascertain whether this Act is complied with, and to give notice in writing to the owner, agent or manager of any particulars in which he considers the mine or plant or any part thereof, or any matter, thing or practice, to be dangerous or defective or contrary to this Act, and to require the same to be remedied within the time named in the notice;
- (b) to enter, inspect and examine any mine or plant or any part thereof at any reasonable time by day or night, but so as not to unnecessarily impede or obstruct the working of the mine or plant;
- (c) to order the immediate cessation of work in and the departure of all persons from any mine or plant or part thereof that he considers unsafe, or to allow persons to continue to work therein on such precautions being taken as he considers necessary; and
- (d) to exercise such other powers as he considers necessary for ensuring the health and safety of miners and all other persons employed in or about mines, plants, pits, quarries or other works.

(2) It is the duty of the engineer to make a report of every examination and inquiry made in the course of his duties during the year to the Minister, the Deputy Minister or the chief engineer, as required by the circumstances, immediately upon the completion of the examination or inquiry. Reports of engineer 1970, c. 79, s. 2, *part*.

619.—(1) The Minister may direct an engineer to make a special report with respect to any accident in or about a mine or plant that has caused the loss of life or injury to any person, or with respect to any condition in or about a mine or plant. Special report

(2) In conducting the inquiry, the engineer has power to compel the attendance of witnesses and the production of books, documents and things, to take evidence upon oath. Engineer may take evidence 1970, c. 79, s. 2, *part*.

620.—(1) Non-compliance with a written order of the engineer issued in accordance with section 618 shall be deemed an offence against this Part. Offence

(2) Failure to give written notice of the completion of any work in accordance with a written order of the engineer issued under section 618 shall be deemed an offence against this Part. Idem 1970, c. 79, s. 2, *part*.

PART X

REFINERY PROVISIONS

Interpre-
tation

621. In this Part, "refinery" means apparatus or equipment that may be used for the refining, retorting, smelting, assaying or treating by any other method of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein. 1961-62, c. 81, s. 1, *part*.

Refinery
licence

622. No person shall own, operate, use or have a refinery in his possession, under his control or upon any property of which he is the owner, licensee, lessee or tenant unless a refinery licence has been granted in respect of such refinery, except that no refinery licence shall be required in respect of a refinery for which a certificate of exemption has been issued. 1961-62, c. 81, s. 1, *part*.

Powers of
Minister as
to refinery
licences

623.—(1) The Minister may,

- (a) issue and renew refinery licences and certificates of exemption;
- (b) refuse to issue or renew a refinery licence or certificate of exemption, or suspend, cancel or revoke a refinery licence or certificate of exemption for any reason that he considers sufficient in the public interest;
- (c) prescribe the forms of refinery licences, certificates of exemption, applications therefor and renewals thereof; and
- (d) prescribe the fee payable upon the issue and renewal of refinery licences and certificates of exemption.

Term of
licence and
certificate
of exemption

(2) Every refinery licence and certificate of exemption expires on the 31st day of March next following the issue thereof and every renewal of a refinery licence or certificate of exemption expires on the 31st day of March next following the expiration of the refinery licence or certificate of exemption or the last renewal thereof. 1961-62, c. 81, s. 1, *part*.

Certificate
of exemption

624.—(1) A certificate of exemption may be issued in respect of a refinery where the Minister is satisfied that the refinery is not maintained or used for the refining, retorting, smelting, assaying or treating of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein or is used only for educational purposes.

Use of
refinery

(2) No person who owns or has in his possession, under his control or upon any property of which he is the owner, licensee,

lessee or tenant a refinery in respect of which a certificate of exemption has been issued shall permit the refinery to be operated or used nor shall he or any other person operate or use the refinery for the refining, retorting, smelting, assaying or treating of any ore, mineral of substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein. 1961-62, c. 81, s. 1, *part*.

625. Every person who contravenes any of the provisions of this Part is guilty of an offence and is liable to a fine of not less than \$10 and not more than \$500 or to imprisonment for a term of not more than one year, or to both fine and imprisonment. 1961-62, c. 81, s. 1, *part*. Offence

626. This Part applies notwithstanding that the owner or operator of a refinery is the holder of a licence issued under any Act. 1961-62, c. 81, s. 1, *part*. Application of Part

627. The Minister may appoint any person to conduct an inquiry into any charge or complaint that a person has contravened any of the provisions of this Part, or into any matter or thing connected with or arising out of the operation of this Part, and such person has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1961-62, c. 81, s. 1, *part*. Commission of inquiry

PART XI

OFFENCES, PENALTIES AND PROSECUTIONS

- 628.**—(1) Every person who, Offences
- (a) prospects, occupies or works any Crown lands or mining rights for minerals otherwise than in accordance with this Act;
 - (b) performs or causes to be performed on any Crown lands, or on any lands where the mining rights are in the Crown, any boring by diamond or other core drill for the purpose of locating valuable mineral in place, except where such Crown lands or mining rights have been staked out and recorded as a mining claim in accordance with this Act;
 - (c) wilfully defaces, alters, removes or disturbs any post, stake, picket, boundary line, figure, writing or other mark lawfully placed, standing or made under this Act;

- (d) wilfully pulls down, injures or defaces any rules or notices posted up by the owner, agent or manager of a mine or plant;
- (e) wilfully obstructs the Commissioner or any officer appointed under this Act in the execution of his duty;
- (f) being the owner or agent of a mine, refuses or neglects to furnish to the Commissioner or to any person appointed by him or to any officer appointed under this Act the means necessary for making an entry, inspection, examination or inquiry in relation to a mine under this Act, other than Part IX;
- (g) unlawfully marks or stakes out in whole or in part a mining claim, a placer mining claim, or an area for a boring permit;
- (h) wilfully acts in contravention of this Act, other than Part IX or Part X, in any particular not hereinbefore set forth;
- (i) wilfully contravenes any provision of this Act or any regulation for the contravention of which no other penalty is provided;
- (j) wilfully makes any material change in the wording or numbering of a miner's licence after its issue; or
- (k) attempts to do any of the acts mentioned in the foregoing clauses,

is guilty of an offence against this Act and is liable to a fine of not more than \$20 for every day upon which the offence occurs or continues.

False
statements

(2) Every person who knowingly makes a false statement in an application, certificate, report, statement or other document filed or made as required by or under this Act or the regulations is guilty of an offence and is liable to a fine of \$500 or to imprisonment for a term of not more than six months, or to both. 1970, c. 79, s. 3, *part.*

Smelters

629.—(1) No person shall construct or cause to be constructed a plant for the smelting, roasting, refining or other treatment of ores or minerals that may result in the escape or release into the open air of sulphur, arsenic or other fumes in quantities that may injure trees or other vegetation unless and until the site of the plant has been approved by the Lieutenant Governor in Council.

Offence

(2) Every person who constructs or causes to be constructed a plant for the smelting, roasting, refining or other treatment of ores or minerals without the approval of the Lieutenant Governor in Council and sulphur, arsenic or other fumes escape or are released therefrom into the open air and injure trees or other

vegetation is guilty of an offence and is liable to a fine of not more than \$1,000 for every day upon which such fumes escape or are released therefrom into the open air. 1970, c. 79, s. 3, *part*.

630. Every person who wilfully neglects or refuses to obey any order or award of the Commissioner, except for the payment of money, is, in addition to any other liability, liable to a fine of not more than \$250 and, upon conviction thereof, is liable to imprisonment for a term of not more than six months unless the fine and costs are sooner paid. 1970, c. 79, s. 3, *part*.

Disobeying
order or
award of
Commis-
sioner

631.—(1) No person who,

- (a) carries on the business of mining or dealing in mines, mining claims, mining lands, or mining rights, or the shares, stocks, or bonds of a mining company; or
- (b) acts as broker or agent in or for the disposal of mines, mining claims, mining lands, or mining rights, or of any such shares, stocks or bonds; or
- (c) offers or undertakes to examine or report on a mine, mining claim, mining land or mining rights,

Use of word
"Bureau"
prohibited

shall use the word "Bureau" as the name or title or part of the name or title under which he acts or carries on business.

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and is liable to a fine of not more than \$20 for every day upon which the offence occurs or continues. 1970, c. 79, s. 3, *part*.

Offence

632.—(1) In this section, the noun "mine" includes "plant" as defined in Part IX.

Interpre-
tation

(2) An owner, agent or other person who contravenes any provision of Part IX is guilty of an offence and is liable to a fine of not more than \$1,000.

Penalty for
offence
against
Part IX

(3) Where the Deputy Minister or an engineer has given written notice to an owner or agent or a person engaged or employed in or about a mine that an offence has been committed against Part IX, such owner or agent or other person is liable to a further fine of not more than \$100 for every day upon which the offence continues after such notice.

Additional
penalty for
continuing
offence

(4) An owner, agent or other person is, upon conviction, liable to imprisonment for a term of not more than three months unless the fine and costs are sooner paid.

Imprison-
ment

(5) Where the offence is one that might have endangered the safety of those employed in or about the mine or caused serious personal injury or a dangerous accident, and was committed wilfully by the personal act, default or negligence of the accused,

Imprison-
ment of
offender
against
Part IX
in certain
cases

every person who is guilty of an offence against Part IX is, in addition to or in substitution for any fine that may be imposed, liable to imprisonment for a term of not more than three months. 1970, c. 79, s. 3, *part, amended*.

Instituting
prosecutions
for offences

633.—(1) No prosecution shall be instituted for an offence against Part IX or Part X or any regulation made in pursuance thereof except,

- (a) by an engineer;
- (b) by direction of the county or district Crown attorney; or
- (c) by the leave in writing of the Minister of Justice and Attorney General,

or for an offence against any other provision of this Act or of any regulation made in pursuance thereof except,

- (d) by or by leave of the Commissioner or a recorder;
- (e) by direction of the county or district Crown attorney; or
- (f) by leave of the Minister of Justice and Attorney General.

When
person not
actual
offender not
liable

(2) No person not being the actual offender is liable in respect of such offence if he proves that he did not participate in the contravention of the provision for a breach of which he is charged and that he was not to blame for the breach and that according to his position and authority he took all reasonable means in his power to prevent the breach and to secure compliance with Part IX or Part X.

Onus of
proof

(3) The burden of proving that the provisions of sections 180 to 604 have been suspended is upon the person charged with a contravention thereof and any such suspension may be proved by the evidence or certificate of an engineer. 1970, c. 79, s. 3, *part*.

Procedure
on
prosecutions

634. Except as to offences against section 15, every prosecution for an offence against or for the recovery of a penalty imposed by or under the authority of this Act shall take place before a provincial judge or before the Commissioner, and, save as herein otherwise provided, *The Summary Convictions Act* applies to every such prosecution. 1970, c. 79, s. 3, *part*.

R.S.O. 1970,
c. 450

PART XII

ENLISTMENT FOR ACTIVE SERVICE

Application
of Part

635. All other provisions of this Act are subject to the provisions of this Part. R.S.O. 1960, c. 241, s. 637.

636. The miner's licence of a person who has enlisted or enrolled for active service at home or abroad against the Queen's enemies shall be deemed to be subsisting and in force until six months after the date of his discharge from such service, or the 31st day of March following such date of discharge, whichever is the later date. R.S.O. 1960, c. 241, s. 638.

Miner's
licence of
enlisted
licensee

637.—(1) Subject to subsections 2, 3 and 4, forfeiture or loss of rights under subsection 1 of section 94, except clauses *a* and *b*, is avoided if the recorded holder of an interest in a mining claim has enlisted or enrolled for active service at home or abroad against the Queen's enemies.

Effect of
enlistment
on forfeiture

(2) In the case of non-performance of work, the period currently to be performed at the date of enlistment shall be performed not later than one year from the date of discharge from active service, two years from such date in the case of the next succeeding period, three years from such date in the case of a second succeeding period, four years from such date in the case of a third succeeding period and five years from such date in the case of a fourth succeeding period.

Performance
of work

(3) Where all the work required to be performed upon a claim has been performed prior to the date of enlistment, application for a patent or lease shall be applied for not later than one year from the date of discharge from active service.

Application
for patent

(4) The report required by subsection 3 of section 85 shall be made not later than ten days after the expiration of the time permitted for the performance of the work by this section.

Filing
report

(5) Where the recorded holder has enlisted or enrolled for active service and subsequently transfers his interest, subsections 2, 3 and 4 apply *mutatis mutandis* to the transferee, but the time for performing work and making application for patent or lease shall be computed from the date of such transfer. R.S.O. 1960, c. 241, s. 639.

Where
recorded
holder on
active
service

638.—(1) Where the applicant for a patent or lease of a mining claim is a person who enlisted or enrolled for active service at home or abroad against the Queen's enemies, he shall not be required to pay the purchase money or the first year's rental, as the case may be, but, where he is not the sole applicant, this exemption applies only to a part of the purchase money or the first year's rental, as the case may be, that is in proportion to his interest in the claim.

Purchase
money or
rental

(2) In the case of each person who has enlisted or enrolled for active service this section applies to not more than three claims whether or not he is the sole owner thereof, and the area of each claim shall not exceed the area prescribed in section 50.

Section not
to apply to
more than
three claims

Section to
apply to
personal
representa-
tives and
beneficiaries

(3) The exemptions provided by this section apply to the personal representatives or beneficiaries of a person coming under subsection 1. R.S.O. 1960, c. 241, s. 640.

Where
ss. 636-638
apply

639. Sections 636 to 638 apply only,

- (a) where the ownership or interest in a mining claim of a person on war service was acquired prior to the time such person enlisted or enrolled for active service; and
- (b) where the recorder of the mining division in which the claims are situate has notice that the holder of such claims or of an interest therein has enlisted or enrolled for active service. R.S.O. 1960, c. 241, s. 641.

Interpre-
tation
R.S.C. 1952,
c. 184

640. In this Part, "active service" means active service as determined under the *National Defence Act* (Canada). 1962-63, c. 84, s. 40.

PART XIII

GENERAL PROVISIONS

LIEN FOR WAGES

Application
of R.S.O.
1970, c. 267

641.—(1) Except as provided in this Act, *The Mechanics' Lien Act* applies to mines, mining claims, mining lands and works connected therewith.

Registration
of lien

(2) Where the lands and mining rights have not been patented, the registration provided for in *The Mechanics' Lien Act* shall be in the office of the recorder.

Lien
where claim
for wages

(3) When the claim is for wages in connection with a mine, mining claim, mining lands or works connected therewith, in addition to the rights and remedies afforded by *The Mechanics' Lien Act*, the claimant has a lien upon any other property of the owner in or on such mine, mining claim, mining land or works for a sum not exceeding thirty days wages, and this claim may be enforced under such Act.

Cancellation
of claim

(4) When the Commissioner is satisfied that a claim for lien recorded as provided in this section is not made in good faith or is made for some improper purpose or where the owner is unduly embarrassed thereby, he may make an order cancelling the lien upon such terms as to security or otherwise as he deems proper.

Lien on
unpatented
lands

(5) A lien upon unpatented lands does not affect the rights of the Crown. R.S.O. 1960, c. 241, s. 642.

PRESERVATION OF PEACE

642. The Lieutenant Governor in Council may declare by proclamation that *The Public Works Peace Preservation Act*, being chapter 36 of the Revised Statutes of Ontario, 1914, to be in force in any mining division or in any defined locality therein, and upon and after the date named in the proclamation section 1 and sections 3 to 9 of that Act take effect within the mining division or locality designated in the proclamation, and that Act applies to all persons employed in any mine or in mining within the limits of such mining division or locality in the same manner and to the same extent as nearly as may be as if the persons so employed had been specially mentioned and referred to in such Act. R.S.O. 1960, c. 241, s. 643.

Powers of
Lieutenant
Governor in
Council
R.S.O. 1914,
c. 36

EXPLORATORY DRILLING

643. The Minister may, out of the moneys that are appropriated by the Legislature for the purpose, purchase such diamond drills as he considers necessary for use in prospecting for ore or minerals under regulations made by the Lieutenant Governor in Council, which may provide,

Purchase
of drills for
prospecting
purposes

- (a) for the control and working of the drills under the direction of a person employed for the purpose by the Department;
- (b) for the payment of freight charges where the drills are used upon mines or land other than those owned by the Crown;
- (c) as to applications for use of the drills and the method of dealing therewith;
- (d) as to charges for use of the drills and for damages thereto, or wear and tear connected therewith,

and otherwise as the Lieutenant Governor in Council considers proper. R.S.O. 1960, c. 241, s. 644.

644. The Minister, out of the moneys that are appropriated by the Legislature for the purpose, may establish, maintain and operate assaying and testing laboratories for sampling, assaying, testing, analysing or determining rocks, ores, minerals and other substances. R.S.O. 1960, c. 241, s. 645.

Assaying
and testing
laboratories

RIGHTS AND EASEMENTS

645.—(1) Where required for or in connection with the proper working of a mine, mill for treating ore or quarry, the owner, lessee or holder of it or the person entitled to work it may, subject as hereinafter provided, obtain and have vested in him by order of the Commissioner, made after hearing such parties interested as appear or on appeal from him,

Rights over
other lands
that may be
conferred by
Commissioner;

- (a) the right to open, construct, put in, maintain and use ditches, tunnels, adits, pipes, conduits, flumes and other works through, over or upon any land for the drainage, conveyance or passage of water;
- (b) the right to discharge water upon any land or by, through or into any existing means of drainage whether natural or artificial;
- (c) the right to drain off, lower or divert the water of any lake, pond, river, stream or watercourse, or any other water, notwithstanding that the water or part thereof may be on the land of or owned by any other person or that any other person may have rights or interests in or to such water or the use thereof;
- (d) the right to collect and dam back water, notwithstanding that it may overflow other land;
- (e) the right to take or divert and use for or in connection with the working of his own mine or quarry and bring thereto for such use any specified water, and to construct and maintain dams and other works and do all other things necessary or convenient therefor;
- (f) rights of way or passage through or over any land or water, and the right to construct, improve, maintain and use suitable roads, tramways, aerial tramways, channels, waterways, passages and other means of transit and transportation upon, through or over any land or water, together with such other rights of entry upon and use of land and water as may be necessary or convenient therefor;
- (g) the right to transmit electricity or any other kind of power, or have it transmitted, through or over any land or water in any form or manner and to do everything necessary or convenient therefor;
- (h) the right to enter upon and use for or in connection with the working of his own mine or quarry a specified area of other land;
- (i) the right to deposit tailings, slimes or other waste products upon any land, or to discharge the same into any water, the effects of such deposit or discharge not being injurious to life or health.

Compensation

(2) No such right shall be granted unless any injury or damage caused to any other person thereby can be adequately compensated for, nor unless in all the circumstances it seems reasonable and fitting to grant the right, nor until, in the case where injury or damage has already been suffered, compensation has been determined by the Commissioner, and the amount thereof paid, and in the exercise of any right so granted no unnecessary injury or

damage shall be done to the land, property, rights or interests of other persons, and all injury and damage that may be caused to any person by the granting and exercise of any right obtained under this section shall be fully compensated for.

(3) The order granting the right shall fix such compensation, or shall provide for the ascertainment thereof, and shall contain any provisions that are considered proper for securing the same and for protecting the rights and interests of any person whose land, property, rights or interests are affected or endangered, and, if considered proper, may require the applicant to make grants or concessions to or construct works or do any other thing for, or for the benefit of, any such person or his land or property, and such order may in all cases be upon such terms, and may grant the right upon such conditions and for such time as are considered proper.

How fixed

(4) In every application for such an order, the applicant, in addition to anything else required or directed, shall file in duplicate with the Commissioner a clear and precise statement of the right or rights being applied for, of the land or property affected and the owner or owners thereof so far as they can be ascertained, a map or plan of the locality showing the land and water involved, and definite and detailed plans and specifications of the works or things proposed to be constructed or done and, for the purpose of preparing the same, the Commissioner may authorize the applicant, his engineers and assistants to enter upon the land of any other person and make such examinations and measurements as may be necessary, and such statement, map or plan and plans and specifications may, by order, be amended or altered or modified at any stage of the proceedings and the Commissioner may give directions as to the notice to be given to the parties interested, the time and manner of service and the particulars to be furnished to such parties respectively.

Material to
be filed on
application

(5) This section applies to and against all patented and unpatented lands and the word "lands" in this section includes any right or interest in lands.

Rights
conferred to
run with
lands

(6) Subject to any change therein or rescission thereof by subsequent order of the Commissioner, all rights and benefits created by any order of the Commissioner heretofore or hereafter made under this section run with and are appurtenant and incident to the lands thereby benefited and all burdens and obligations created or imposed by any such order run with and are binding on all lands in respect of which they were created or imposed and such order continues valid and binding in respect of all lands thereby affected notwithstanding forfeiture thereof by the Crown or sale thereof because of unpaid taxes, it being expressly declared that the Crown or any municipality or any person acquiring such land is bound by such order in the same manner and to the same extent as the owner thereof at the time such order was made.

Idem

- Idem** (7) Every such order shall contain proper descriptions of the lands thereby benefited and of all other lands thereby affected sufficient for purposes of registration, and there shall be attached thereto a plan or plans showing clearly the lands thereby benefited and all other lands thereby affected.
- Notice** (8) Notice of hearing of all applications under this section shall be given to the Minister in the same manner as notice to any other interested person.
- Copy to be filed with Minister** (9) A copy of every order made under this section, certified to be a true copy under the hand and seal of the Commissioner, shall be immediately filed by the applicant with the Minister and in the office of the recorder of the division in which the lands affected are situate, and, if any patented lands are thereby affected, a copy of such order so certified shall be filed in the land titles office or registry office for the district in which the lands are situate.
- Particulars to be entered** (10) The recorder or master of titles or registrar, as the case may be, shall enter particulars of such order against the titles of the lands thereby affected.
- Where Department to send copy** (11) Where unpatented mining claims affected by any such order are subsequently patented or leased, a copy of such order so certified shall be sent to the land titles office by the Department with the grant or lease.
- Failure to file** (12) Unless such order is so filed in the land titles office or registry office for the district in which the lands are situate, a purchaser for value without notice of patented lands affected by any such order is not bound thereby.
- Commissioner may change order or award** (13) The Commissioner, for good cause shown and on such terms as seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order made under the authority of this section.
- Rights not to be exercised until after expiration of time for appeal** (14) Rights granted under this section shall not be exercised until the time for appealing from the order granting the rights has expired or, where an appeal is entered, until the appeal is disposed of, but from and after such time, subject to any restriction or postponement provided for in the order, the person to whom any such right is granted may enter upon any land or property and exercise the right so granted, and any person who after such time obstructs the exercise of any such right or wilfully neglects or refuses to obey any order made under this section is guilty of an offence against this Act and, in addition to any other liability, is liable to a fine of not more than \$250 for each day such obstruction, neglect or refusal continues. R.S.O. 1960, c. 241, s. 646.

REGULATIONS

646.—(1) The Lieutenant Governor in Council may make Regulations regulations for,

- (a) the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands heretofore or hereafter sold or granted as mining lands or recorded as mining claims or locations, and for the opening, construction, maintenance and use of ditches, aqueducts or raceways through, over or upon such claims, locations or land for the conveying and passage of water for mining purposes;
- (b) to meet cases that may arise for which no provision is made in the Act, or when he considers the provision made to be ambiguous or doubtful;
- (c) the imposition of penalties of not more than \$200 or of not more than three months imprisonment for the contravention of any such regulations;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Notwithstanding anything in this Act, in special circumstances the Minister may, subject to the approval of the Lieutenant Governor in Council, issue a licence of occupation, lease or patent of any mining lands or mining rights on such terms and conditions as he considers expedient. R.S.O. 1960, c. 241, s. 647.

Minister
may issue
licence,
lease or
patent

647. With the consent of the Lieutenant Governor in Council and on such terms as he sees fit, any company authorized to supply electrical power or energy or compressed air, or both, may from time to time construct, maintain and operate transmission lines, air pipe lines, substations and other conveniences for the transmission of electrical power or energy or compressed air, or both, in and through any mining division, and for any of such purposes may enter upon, take and use any mining lands or any privilege or easement required by such company for such purposes without the consent of the owner thereof, but subject to the payment of such compensation or annual rent for the privilege or easement required and authorized as is determined by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may from time to time revoke or vary the terms upon which any right conferred under this section may be exercised. R.S.O. 1960, c. 241, s. 648.

Transmission
of electricity
in mining
division and
entering
on lands
without
consent of
owner

FEES

648. Fees are payable under this Act in accordance with the tariff in the Schedule and, except as otherwise mentioned, are for the use of the Province of Ontario. R.S.O. 1960, c. 241, s. 649.

Fees

No fee to record order upon direction of Commissioner

649.—(1) Notwithstanding section 648, where an order is made by the Commissioner or on appeal from his decision, and it is in the public interest that the order be recorded, and where the order would not otherwise be recorded, the Commissioner may direct the mining recorder to record the order without fee.

Exception

(2) Subsection 1 does not apply to an order made under section 95 except an order dismissing an application made under that section. R.S.O. 1960, c. 241, s. 650.

CANCELLATION OF PATENTS

Lands and mining rights to be withdrawn from exploration on repeal of patent or lease at instance of Crown

650. Where a patent or lease of mining lands or mining rights is by proceedings in the Supreme Court at the instance of the Crown repealed or avoided, such lands and mining rights thereupon become and are withdrawn from exploration, discovery, staking out, lease or sale, and every discovery upon and claim to such lands or mining rights and to the mines or minerals on, in or under such lands made or existing at any time before the repeal or avoidance of the patent or lease become and are void, and such lands, mining rights, mines and minerals are thenceforth vested in the Crown freed and discharged of and from every claim. R.S.O. 1960, c. 241, s. 651.

FORFEITURE OF LEASES

Surface rights on lands forfeited or surrendered R.S.O. 1970, c. 380

651. Where lands that include surface rights revert or revert or are surrendered or forfeited under this Act or are declared to be open for disposition under this Act, such lands may be dealt with under *The Public Lands Act* or any other Act administered by the Minister of Lands and Forests or the regulations made thereunder. 1962-63, c. 84, s. 41.

DEFAULT OF CO-OWNERS, ETC.

Interpretation

652.—(1) In this section, "co-owner" includes co-lessee and co-licensee, and a corporation with share capital and a shareholder thereof shall be deemed to be co-owners. R.S.O. 1960, c. 241, s. 653 (1).

Procedure to enforce claim for payment of rents or expenditures by one co-owner against another

(2) Where lands or mining rights that are subject to rents or expenditures for development work are held by two or more co-owners and all such rents or expenditures have been paid by one or more of them and the other or others has or have neglected or refused to pay his or their proportion of the rents or expenditures for a period of four or more consecutive years, the Commissioner, upon the application of any co-owner or co-owners who has or have paid the rents or met the expenditures for the period of four or more consecutive years immediately prior to the date of the application and upon the receipt of such other information and particulars as he requires, may make an order requiring the delinquent co-owner or co-owners to pay, within three months of

the date of the order or such further time as the Commissioner may fix, his or their fair proportion of the rents or expenditures to the co-owner or co-owners who has or have paid all the rents or expenditures, together with interest at the rate of 6 per cent per annum compounded yearly, and such costs of the application as are allowed by the Commissioner. 1962-63, c. 84, s. 42.

(3) The order may be served in such manner as the Commissioner may direct, and if at the expiration of the period fixed by the order or such further time as has been ordered by the Commissioner it appears to him that payment has not been made in accordance therewith, he may make an order vesting the interest of the delinquent co-owner or co-owners in the co-owner or co-owners who have paid the rents or expenditures.

Vesting
order

(4) Where a delinquent co-owner has died either before or after default in respect of his portion and no person has taken out administration of his estate or has obtained probate of his will, any order made under this section may be directed to and served upon his heirs.

Death of
delinquent

(5) An order made under this section against a corporation shall be directed to the corporation only.

Order
against
corporation

(6) An application under subsection 2 shall be accompanied by a fee of \$25. R.S.O. 1960, c. 241, s. 653 (3-6).

Fee

MINERAL RIGHTS UNDER ROADS

653.—(1) The corporation of any county or township in that part of Ontario lying south of the French River, Lake Nipissing and the River Mattawa, wherever minerals are found, may sell or lease, by public auction or otherwise, the right to take minerals found upon or under any roads over which the township or county has jurisdiction, if considered expedient so to do.

Sale or lease
of mineral
rights under
roads

(2) No such sale or lease shall take place until after due notice of the intended by-law has been posted up in six of the most public places in the immediate neighbourhood of such road for at least one month previous to the time fixed for considering the by-law.

No sale
or lease till
after notice

(3) The deed conveyance or lease to the purchaser or lessee under the by-law shall contain a proviso protecting the road for public travel and preventing any user of the granted rights that would interfere with public travel.

Sale or
lease not to
interfere
with public
travel

(4) In the remaining parts of Ontario, the mines, minerals, and mining rights in, on or under all common and public highways and road allowances are vested in the Crown, and may be sold, leased or otherwise disposed of under this Act.

In northern
part of
Province

(5) Where a mining location or any mining lands adjoin a common and public highway or road allowance and the mineral vein or deposit thereon extends into or under the highway or road

Rights of
adjoining
landowners

allowance, its owner has the right to purchase or lease the mines, minerals and mining rights in, on or under the same, subject to this Act, or where there are mining locations or mining lands on both sides of such highway or road allowance, such rights accrue to the owner or owners on both sides thereof as respects the half of such highway or road allowance adjoining his or their lands.

Exception (6) Subsections 4 and 5 do not apply to highways on lands granted before the 1st day of May, 1904 by the Crown under a predecessor of this Act, or in the grant whereof the mines and minerals were not reserved to the Crown. R.S.O. 1960, c. 241, s. 654 (1-6).

Patent or lease to protect public travel (7) The patent or lease of such mines, minerals and mining rights shall contain a proviso protecting the road for public travel and preventing any user of the granted rights that would interfere with public travel unless a road in lieu thereof has been provided and accepted by the municipal corporation having control of the road. R.S.O. 1960, c. 241, s. 654 (7); 1961-62, c. 81, s. 2.

Previously acquired rights preserved (8) Subsections 4 to 7 do not affect any rights acquired from or any agreement made or entered into with any municipal corporation under this section prior to the 1st day of May, 1904. R.S.O. 1960, c. 241, s. 654 (8).

SURRENDER OF LANDS

Voluntary surrender of mining lands

654. The owner, lessee or licensee of any mining lands or mining rights granted under this Act or any other Act may voluntarily surrender such lands or mining rights to the Crown and thereupon the Minister may cause a notice of determination to be filed in the proper land titles or registry office and thereafter such lands or mining rights are open for prospecting, staking out, sale or lease. R.S.O. 1960, c. 241, s. 655.

FORFEITED LANDS 1970,

Lands forfeited to Crown
R.S.O. 1970,
cc. 89, 53, 280

655.—(1) Where mining lands or mining rights are forfeited to the Crown under *The Corporations Act*, *The Business Corporations Act* or *The Mortmain and Charitable Uses Act*, or any predecessor thereof, the Minister may cause to be registered in the proper land titles or registry office a notice stating that forfeiture has been effected under that Act and that by reason of such forfeiture the lands or mining rights and every interest therein are forfeited to and vested in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture, and, subject to subsection 2, such lands shall be dealt with under this Act.

(2) Mining lands or mining rights so forfeited are not open for prospecting, staking out, sale or lease under this Act until a date fixed by the Deputy Minister, two weeks notice of which shall be published in *The Ontario Gazette*. 1962-63, c. 84, s. 43, amended.

Opening
forfeited
lands,
etc., for
prospecting

TECHNICAL PROSPECTING

656.—(1) Where the Minister is satisfied that any terrain, due to the paucity of rock outcrops or for any other reason, cannot be prospected or explored for its mineral possibilities by other than geophysical or other technical methods, he may, notwithstanding anything in this Act but subject to the approval of the Lieutenant Governor in Council, issue a licence to prospect and explore any such area that he designates for base metals and minerals, other than petroleum oil and natural gas, subject to the following:

Licence
to prospect
by technical
methods

1. The licence shall be for a term of three years and may contain such conditions as the Minister considers proper.
2. The fee for the licence shall be \$1,000 payable annually during the term of the licence.
3. The area for which a licence may be issued shall be in one parcel and shall not be greater than 64,000 acres.
4. A licensee may surrender his licence at any time upon giving written notice thereof to the Minister at least thirty days before the surrender is to take effect.
5. The Minister may terminate a licence at any time if he is satisfied that the licensee has not complied with this section and the conditions of the licence.
6. Before the issue of a licence the applicant therefor shall furnish to the Minister a deposit of \$25,000 which shall be in cash or in,
 - (a) bearer bonds of,
 - (i) the Province of Ontario,
 - (ii) The Hydro-Electric Power Commission of Ontario, or
 - (iii) the Government of Canada; or
 - (b) the form of a promissory note guaranteed by a chartered bank of Canada, which shall be retained by the Minister until the licence expires or is surrendered when it shall be returned to the licensee, except that where the licensee has not complied with this section and with the conditions of the licence to the satisfaction of the Minister, the

deposit is forfeited to and becomes the property of the Crown.

7. A licensee shall expend annually in geophysical, geological or other exploratory work of a similar nature, or drilling, a sum equal to \$1 per acre, but in no case shall such annual expenditure be less than \$25,000.
8. A plan detailing the nature of a proposed annual expenditure shall be submitted to the Minister for approval within ninety days of the date of issue or anniversary date of the licence, as the case may be, and if the plan is approved, the exploratory work shall be commenced within six months thereafter.
9. The licensee shall,
 - i. within thirty days after the anniversary date of the licence, prove to the satisfaction of the Minister that he has expended the amount required in the manner provided in paragraph 7,
 - ii. within sixty days of completion submit to the Minister full reports and plans of all geological or geophysical examinations, drillings or other exploratory work, including detailed logs of all holes drilled,
 - iii. correctly label all drill cores and cuttings, and
 - iv. permit the Minister or his authorized agent to examine all drill cores and cuttings at any time not later than six months after the completion of the drilling. R.S.O. 1960, c. 241, s. 657 (1); 1970, c. 26, s. 12.

Lease

(2) If a deposit of mineral is found by a licensee that in the opinion of the Minister is of economic importance, the licensee is entitled to apply for a lease comprising not more than 10 per cent of the area for which the licence was issued.

Term

(3) The lease shall be for a term of ten years and shall contain such conditions as the Minister considers proper.

Rental

(4) The annual rental shall be at the rate of not less than 50 cents and not more than \$5 per acre.

Renewal

(5) The lease may be renewed for terms of ten years at such rental and subject to such conditions as the Minister considers proper.

Regulations

(6) The Lieutenant Governor in Council may make such regulations as he considers expedient for the better carrying out of this section. R.S.O. 1960, c. 241, s. 657 (2-6).

PART XIV

ACREAGE TAX

657. In this Part, "municipality" means a city, town, village, township or improvement district. R.S.O. 1960, c. 241, s. 658. Interpretation

658.—(1) There shall be paid to the Crown in right of Ontario in each year an acreage tax of 50 cents an acre on any lands or mining rights to which this Part applies. R.S.O. 1960, c. 241, s. 659 (1); 1968, c. 71, s. 11. Amount of tax

(2) The minimum acreage tax is \$1 a year in a municipality and \$4 a year in territory without municipal organization. R.S.O. 1960, c. 241, s. 659 (2). Minimum tax

659. The acreage tax shall be imposed for each calendar year and is payable on or before the 1st day of October in the year for which it is imposed. R.S.O. 1960, c. 241, s. 660. Date of payment of tax

660.—(1) Except as provided in this Part,

- (a) all lands and mining rights in territory without municipal organization patented under or pursuant to any statute, regulation or law at any time in force authorizing the granting of Crown lands for mining purposes;
- (b) all land in territory without municipal organization being held or used for mining purposes howsoever patented or alienated from the Crown;
- (c) all mining rights in, upon or under lands in a municipality patented under or pursuant to any statute, regulation or law at any time in force authorizing the granting of Crown lands for mining purposes;
- (d) all mining rights in, upon or under land in a municipality and being held or used for mining purposes howsoever patented or alienated from the Crown; and
- (e) all mining rights howsoever patented or acquired which are severed from or held apart or separate from the surface rights,

Lands liable for tax

are liable for, and the owner or lessee thereof shall pay the acreage tax. R.S.O. 1960, c. 241, s. 661 (1); 1970, c. 26, s. 13 (1, 2).

(2) No acreage tax is payable in respect of mining lands or mining rights granted by the Crown by lease or renewal of lease. 1970, c. 26, s. 13 (3). Exemption from tax

661.—(1) The Minister may exempt lands or mining rights from the tax under this Part where, Exemptions from tax by Minister

- (a) land has been subdivided by a registered plan into lots or parcels for city, town, village or summer resort purposes

and there is no severance of the surface and mining rights;

- (b) land is being actually used for public park, educational, religious or cemetery purposes and there is no severance of the surface and mining rights;
- (c) land is in *bona fide* use for farming or other agricultural purposes and there is no severance of the surface and mining rights; or
- (d) the mining rights in, upon or under any land situated south of the French River, Lake Nipissing and the Mattawa River, including the Territorial District of Manitoulin, are being held, used or developed solely for the production of natural gas or petroleum. 1970, c. 26, s. 14.

Decision of
Minister
final

(2) The decision of the Minister as to the right of exemption under subsection 1 is final and conclusive. R.S.O. 1960, c. 241, s. 662 (2).

Cases where
mining
rights tax-
able only

662. Where the Minister is satisfied that the surface rights in respect of a mining claim or mining location are being used for purposes other than that of mining or the mineral industry, this Part applies only to the mining rights. R.S.O. 1960, c. 241, s. 663.

Preparation
of tax roll

663. The Deputy Minister shall cause to be prepared each year a tax roll of the lands and mining rights and persons liable to the acreage tax. R.S.O. 1960, c. 241, s. 664.

Registration
of notice of
liability
and for-
feiture

664. The Deputy Minister may register in the proper registry or land titles office a notice of liability to taxation and forfeiture, in the prescribed form, in respect of any lands or mining rights subject to the acreage tax. R.S.O. 1960, c. 241, s. 667.

Liability
for tax
though not
on roll

665. Notwithstanding sections 663 and 664, every person and property liable to the acreage tax is liable whether entered in the tax roll or not, and the tax is, without any notice or demand, payable at the time and in the manner provided in this Part. R.S.O. 1960, c. 241, s. 668; 1962-63, c. 84, s. 45.

Commis-
sioner may
settle
disputes

666. Where any question or dispute arises as to the name of a person having been wrongfully inserted in or omitted from a tax roll or as having been undercharged or overcharged under this Part, the Minister may in writing refer the question or dispute to the Commissioner for hearing and adjudication. R.S.O. 1960, c. 241, s. 669.

667.—(1) Where lands or mining rights liable for acreage tax are held by two or more co-owners and all such tax has been paid by one or more of them and the other or others has or have neglected or refused to pay his or their proportion of the tax for a period of four or more consecutive years, the Commissioner, upon the application of any co-owner or co-owners who has or have paid the tax for the period of four or more consecutive years immediately prior to the date of the application and upon the receipt of such other information and particulars as he requires, may make an order requiring the delinquent co-owner or co-owners to pay, within three months of the date of the order or such further time as the Commissioner may fix, his or their fair proportion of the tax to the co-owner or co-owners who has or have paid all the tax, together with interest at the rate of 6 per cent per annum compounded yearly, and such costs of the application as are allowed by the Commissioner. 1962-63, c. 84, s. 46.

Procedure to enforce claim for payment of taxes by one co-owner against another

(2) An application under subsection 1 shall be accompanied by a fee of \$25.

Fee

(3) The order shall be served in such manner as the Commissioner may direct and, if at the expiration of the period fixed by the order it appears to the Commissioner that payment has not been made in accordance therewith, the Commissioner may make an order vesting the interest of the delinquent co-owner or co-owners in the co-owner or co-owners who have paid the taxes, and that order shall be registered in the proper registry or land titles office and a duplicate original thereof forwarded by the Commissioner to the Minister.

Service of order

(4) Any order made against an incorporated company under this section shall be directed to the company only.

Service of order on company

(5) For the purpose of this section, two or more co-holders or co-lessees shall be deemed to be co-owners, and an incorporated company and a shareholder therein shall be deemed to be co-owners of the lands of the company. R.S.O. 1960, c. 241, s. 670 (2-5).

Interpretation

668.—(1) The Deputy Minister shall cause to be prepared between the 1st day of January and the 31st day of March in each year a list of all lands and mining rights in respect of which any acreage tax is two years or more in arrear, and, not later than the 30th day of June next following, shall cause to be sent by registered mail a notice to the person appearing from search or inquiry at the registry or land titles office to be the owner of the property in default and to every person appearing from that search or inquiry to have an interest therein, at the address or last known address of such person so far as he can reasonably ascertain it, stating that, unless the total amount of tax and penalties due and payable under this Part are paid on or before the 31st day of

Defaulters list and notice of forfeitures

December next following, the property will be forfeited to and vested in the Crown on the 1st day of January next following, and to the amount so due and payable there shall in every case be added and paid as costs the sum of \$10 for each property. 1970, c. 26, s. 15.

Publication
of list and
notice

(2) Not later than the 15th day of July in each year, the Deputy Minister shall cause the list prepared under subsection 1 to be published in one issue of *The Ontario Gazette* and in one issue of a newspaper published in the district or county in which the property is situate, giving notice that, unless the total amount of acreage tax, penalties and costs shown therein are paid on or before the 31st day of December next following, the property will be forfeited to and vested in the Crown on the 1st day of January next following. R.S.O. 1960, c. 241, s. 671 (2); 1962-63, c. 84, s. 47 (2).

Declaration
of forfeiture

(3) Where the total amount of acreage tax, penalties and costs remain unpaid after the 31st day of December of the year of publication of the notice mentioned in subsection 2, the Minister by certificate, in the prescribed form, may, on or after the 1st day of January next following, declare the lands or mining rights, and every interest therein, forfeited to and vested in the Crown, and thereupon the lands or mining rights, and every interest therein, vest in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto whether existing, arising or accruing before or after such forfeiture is declared. R.S.O. 1960, c. 241, s. 671 (3).

Not open
for staking

(4) Except as provided in subsection 7, lands and mining rights so forfeited are not open for prospecting, staking out, sale or lease under this Act. R.S.O. 1960, c. 241, s. 671 (4); 1962-63, c. 84, s. 47 (3).

Registration
of certificate

(5) The registrar of the registry division in which any land or right mentioned in a certificate of forfeiture made under subsection 3 is situate, or the master of titles, as the case may be, shall, upon receipt of the certificate, duly register it and it is absolute and conclusive evidence of the forfeiture to the Crown of the land or mining rights so certified to be forfeited and is not open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture.

R.S.O. 1970,
cc. 409, 234
not to apply
to forfeited
lands

(6) Upon registration of the certificate of forfeiture in the registry or land titles office, *The Registry Act* or *The Land Titles Act*, as the case may be, ceases to apply to the land forfeited, and the registrar or master of titles shall note that fact in his register in red ink. R.S.O. 1960, c. 241, s. 671 (5, 6), *amended*.

Opening
forfeited
lands, etc.,
for pros-
pecting

(7) The lands and mining rights forfeited to and vested in the Crown under this Part that are mentioned in a notice published in one issue of *The Ontario Gazette* during May of any year are open

for prospecting, staking out, sale or lease under this Act at and after 7 o'clock standard time in the forenoon of the 1st day of June next following. R.S.O. 1960, c. 241, s. 671 (7); 1962-63, c. 84, s. 47 (4).

669. Any person duly authorized by the Minister in writing may, for the purpose of ascertaining the names and addresses of owners or lessees of land or mining rights liable to taxation under this Part, search and inspect registry books, indexes and documents in registry and land titles offices, and no charge is to be made by and no fee is payable to a registrar or master of titles for any such search or inspection. R.S.O. 1960, c. 241, s. 672.

Right to search registry and land titles office free of charge

670.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may by order revoke, cancel or annul the forfeiture of any lands or mining rights under this Part, and the Deputy Minister shall cause the order to be registered in the proper land titles office or registry office and thereupon the lands or mining rights revert in the owner or lessee of the lands or mining rights at the time of forfeiture, his heirs, successors or assigns, subject to any lien, mortgage or charge entered or registered prior to the forfeiture and still outstanding. R.S.O. c. 241, s. 674 (1); 1970, c. 26, s. 16.

Annulment of forfeiture

(2) Where application is made for an order under subsection 1, the Minister may direct the lands or mining rights described in the application to be withdrawn from prospecting, staking out, sale or lease until the disposition of the application.

Withdrawal of lands from prospecting, etc.

(3) The Minister may direct an application for an order under subsection 1 to be accompanied by a fee of \$25. R.S.O. 1960, c. 241, s. 674 (2, 3).

Fee

671.—(1) Where the acreage tax is not paid within the time prescribed, a penalty of 6 per cent compounded yearly shall be added thereto forthwith and in each year thereafter that the tax remains unpaid, and for all purposes the increased amounts become and are the tax due and payable under this Part.

Six per cent to be added for default

(2) The Deputy Minister, or such other person as is directed by the Minister, shall keep a record of all arrears of acreage taxes with the increased amounts from time to time entered thereon. R.S.O. 1960, c. 241, s. 675.

Record of arrears to be kept

672. All taxes, penalties and costs payable under this Part constitute a special lien on the lands or mining rights against which the tax under this Part is levied in priority to every claim, privilege, lien or encumbrance of any person, whether the right or title of that person has accrued before, or accrues after, the attaching of the special lien, and its priority is not lost or impaired by any neglect, omission or error of any official, officer or person,

Special lien and priority of the tax

or by want of registration, and the special lien may be realized by action for sale of any or all property subject to it. R.S.O. 1960, c. 241, s. 676.

Right of
action

673. If an owner or lessee of lands or mining rights fails to pay the acreage tax on his lands or mining rights when due, the Minister may bring action in any court of competent jurisdiction for the recovery of the tax together with penalties and costs. R.S.O. 1960, c. 241, s. 677.

Compromise
of acreage
taxes

674.—(1) Where a doubt arises as to the liability of a person to pay a tax or any part of a tax imposed under this Part, the Minister may, subject to the approval of the Lieutenant Governor in Council, compromise the matter by the acceptance of such amount as he considers proper and, where the tax imposed has been paid under protest, he may refund the tax or any part thereof to the person making the payment under protest.

Exemption
from acreage
tax

(2) Where land that was not subject to tax under this Part becomes subject to tax because the surface rights thereof have been severed from the mining rights for a public road, highway or public utility, the Minister may exempt the mining rights so severed from the tax during such term as he is satisfied that the mining rights are not being used or held for mining purposes. R.S.O. 1960, c. 241, s. 678.

Lands and
easements
revert to
Crown

675. Where under this Part or section 113, 654 or 655 a dominant tenement reverts to and becomes vested in the Crown, any easement appurtenant thereto passes to the Crown and, where a servient tenement reverts to and becomes vested in the Crown, any easement to which the servient tenement is subject is not affected. 1967, c. 54, s. 18.

SCHEDULE

The Mining Act

SCHEDULE OF FEES

(Section 648)

1. For a miner's licence or renewal thereof for an individual. (See sections 25, 648)	\$ 5.00
2. The fee for a miner's licence or renewal thereof for a company shall be based on its authorized capital as follows:	
1. Where the authorized capital does not exceed \$50,000 or 50,000 shares of no par value	25.00
2. Where the authorized capital exceeds \$50,000 or 50,000 shares of no par value but does not exceed \$1,000,000 or 1,000,000 shares of no par value	50.00
3. Where the authorized capital exceeds \$1,000,000 or 1,000,000 shares of no par value	100.00
3. For recording each boring permit staked out by a licensee	10.00
4. For recording each mining claim staked out by a licensee	10.00
5. For examining claim record book, per claim .....	.25
6. For inspecting any document filed with a mining recorder .....	.25
7. For recording a dispute, per claim. (See sections 63, 648)	10.00
8. For certificate of record of claim. (See sections 66, 648)	1.00
9. For certificate of performance of working conditions. (See sections 85, 648)	1.00
10. On filing appeal from recorder's decision. (See sections 146, 648)	10.00
11. On filing appeal from Mining Commissioner's decision. (See sections 164, 648)	20.00
12. For filing a transfer of the whole of or any interest in a mining claim	5.00
13. For filing an agreement, power of attorney or revocation thereof, copy of writ of execution, discharge of execution or any other instrument affecting a recorded claim, right or interest, per claim	2.00
14. For a substituted miner's licence. (See sections 29, 648)	1.00
15. For special renewal licence under section 95 to save forfeiture, twice the prescribed licence fee	
16. For recording an order of the Mining Commissioner extending the time for performing working conditions, affixing metal tags or making application and payment for patent or lease, per claim	5.00
17. For recording an order of the Mining Commissioner relieving against forfeiture or loss of rights and extending the time for performing working conditions, affixing metal tags, making application for patent or lease or authorizing the filing of a belated report of work, per claim	10.00

18. For recording an order of the Mining Commissioner, or made on appeal from him, per claim. (See sections 84, 648).....	\$ 1.00
19. For recording a certificate that interest in claim or other recorded right or interest is called in question, per claim. (See sections 84, 648).....	10.00
20. For copies or certified copies of any document, paper or record obtained from any officer, per folio.....	.10
21. For a copy or certified copy of an application to record a mining claim or of a report of work, each.....	1.00
22. For every affidavit sworn before a recorder.....	.25
23. For abstract or copy of entries in record book respecting a mining claim.....	.50
24. For making additional entries on an abstract of a mining claim.....	.25
25. For filing an application for a mining claim under subsection 2 of section 63.....	10.00
26. For a quarry permit covering an area of 40 acres or less.....	10.00
and for each additional acre over 40 or part thereof.....	.25
27. For consenting to the transfer of a mining lease or licence of occupation or any interest in a mining lease or licence of occupation.....	5.00
28. For consenting to or for filing any acceptable document relating to a mining lease or licence of occupation other than a transfer.....	2.00

R.S.O. 1960, c. 241, Sched.; 1965, c. 73, s. 9; 1967, c. 54, s. 19; 1970, c. 26, s. 17.

CHAPTER 275

The Mining Tax Act

- 1.** In this Act, Interpre-
tation
- (a) "Department" means the Department of Mines and Northern Affairs;
 - (b) "Deputy Minister" means the Deputy Minister of Mines and Northern Affairs;
 - (c) "fiscal year" means the period for which the accounts of the business of a corporation are ordinarily made up and accepted for purposes of assessment under this Act, and, in the absence of an established practice, the fiscal year is that adopted by the corporation, but no fiscal year may exceed fifty-three weeks, and any change in a usual and accepted fiscal year shall be made for the purposes of this Act only with the concurrence of or in accordance with the direction of the Minister;
 - (d) "mine" means any opening in or working of the ground from or by which metalliferous ore or other mineral substance, as defined in clause *f*, is taken, and includes the mining claim, mining location and the whole parcel of land in which any such workings are being or have been carried on, but for the purposes of section 9, "mineral substance" includes diatomaceous earth, limestone, marl, peat, clay, building stone or stone for ornamental or decorative purposes, non-auriferous sand or gravel, natural gas or petroleum or sodium chloride recovered by the solution method;
 - (e) "mine assessor" means any officer of such designation appointed under this Act and any other officer or person appointed or directed by the Minister to perform any duty or exercise any power or authority by this Act specified or provided to be performed or exercised by a mine assessor;
 - (f) "mineral substance" means ores, rocks and minerals of every kind whether inorganic or organic, but does not include diatomaceous earth, limestone, marl, peat, clay, building stone or stone for ornamental or decorative purposes, non-auriferous sand or gravel, natural gas or petroleum, or sodium chloride recovered by the solution method;
 - (g) "Minister" means the Minister of Mines and Northern Affairs;

- (h) "municipality" means a city, town, village, township or improvement district;
- (i) "output", when used in reference to a mine, means all ores or other solid mineral or mineral-bearing substances raised, taken or gained from any mine or land in Ontario, and which have been sold, or have been removed from the mining premises where produced, or have been treated or partially treated at any smelter, mill or refinery on the mining premises from which they were taken;
- (j) "person" includes corporation, company, syndicate, trust, firm, partnership, co-owners, or party, and the heirs, executors, administrators or other legal representatives of such person if the context can apply thereto;
- (k) "taxation year" means, in the case of a mining corporation, fiscal year, and in the case of an individual, partnership or syndicate engaged in mining operations, calendar year, and in the case of an individual, partnership, syndicate or corporation engaged in the production of natural gas, calendar year. R.S.O. 1960, c. 242, s. 1; 1968-69, c. 69, s. 1, *amended*.

When taxes
accrue and
when
payable

2.—(1) The taxes imposed under this Act accrue on the last day of the taxation year and the estimated amount thereof is payable to the Minister not later than two months following the close of the taxation year with respect to the tax payable under section 3 and not later than four months following the close of the taxation year with respect to the tax payable under section 15.

Payment
of balance

(2) Every person liable to pay a tax under this Act shall pay the amount, if any, by which any tax payable as estimated by him to be payable in the return required to be delivered by section 6 or section 19, as the case may be, exceeds the amount paid under subsection 1, at the time of making such return. R.S.O. 1960, c. 242, s. 2.

PART I

MINING TAX

Profit tax

3.—(1) Every mine, whose profit, as determined under this section, exceeds \$50,000 in a taxation year, is liable for and the owner, manager, holder, lessee, tenant, occupier or operator of the mine shall pay a tax of 15 per cent on the total profit of the mine in the taxation year, as determined under this section. 1968-69, c. 69, s. 2 (1).

Mines
worked
together

(2) For the purpose of this section, all mines and mineral workings occupied, worked or operated by the same person or under the same general management or control or the profits of

which accrue to the same person shall, for the purpose of determining whether there is liability to taxation hereunder, be deemed to be and be dealt with as one and the same mine, and not as separate mines. R.S.O. 1960, c. 242, s. 3 (2).

- (3) The profit for a taxation year is the difference between,
- (a) the amount of the gross receipts from the output of the mine during the taxation year; or
 - (b) in case the ore, mineral or mineral-bearing substance or a part thereof is not sold but is treated by or for the owner, holder, lessee, tenant, occupier or operator of the mine, the amount of the actual market value of the output at the pit's mouth; or
 - (c) if there is no means of ascertaining the actual market value of the output at the pit's mouth, the amount at which the mine assessor appraises such output,

Ascertain-
ment of
profit

and the following expenses, payments, allowances or deductions:

- (d) the cost of transportation of any output sold, if paid or borne by the owner, holder, lessee, tenant, occupier or operator;
- (e) the proper working expenses of the mine, both underground and above ground, including salaries and wages of all necessary employees employed at or about the mine and the proper salaries and office expenses for necessary office work done at the mine and at the head office of the mine and in immediate connection with the mining operations;
- (f) the cost of power, light and transportation used in the mining operations and in handling the ore or mineral;
- (g) the net cost of food and provisions supplied to the employees of the mine;
- (h) the cost of explosives, fuel and any other supplies necessarily consumed in the mining operations;
- (i) any proper outlay incurred in safeguarding or protecting the mine or mineral product;
- (j) the cost of proper insurance upon the output, if paid or borne by the owner, holder, lessee, tenant, occupier or operator, and upon the mining plant, machinery, equipment and buildings used for or in immediate connection with the mining operations or for storing the ore or mineral;
- (k) an allowance for depreciation of not less than 5 per cent per annum and not more than 15 per cent per annum of the cost or value as determined by the mine assessor at the close of the taxation year of the mining plant,

machinery, equipment and buildings until the full value or cost thereof has been allowed as an expense under this section, but where the mining plant, machinery, equipment and buildings or any part thereof have been disposed of, the proceeds from such disposal shall be applied to reduce the cost or value of any additions thereto in the taxation year, and where such proceeds exceed the cost of such additions, such excess shall be applied to reduce the balance remaining to be depreciated of such assets acquired in previous years, and where no such balance remains to be depreciated, such excess shall be applied to reduce deductions otherwise allowable under this section, and where any such disposal is made at any time after the close of mining operations, notwithstanding subsection 2 of section 10, the tax for the last taxation year shall be reassessed for the purpose of depreciation recovery where applicable;

- (l) subject to the approval of the mine assessor and notwithstanding anything in this subsection, at least 15 per cent of the expenditure incurred, following the commencement of production and which has not at any time in a previous year been allowed as an expense, for actual exploration and development work done in Ontario where the work has as its object the finding, testing or opening up of deposits of metalliferous ore or other solid mineral substances on the following conditions:
 - (i) that such expenditure does not include moneys paid in the purchase of, or in acquiring an option to purchase, or in acquiring the right to mine, or an option on the right to mine, such deposits,
 - (ii) that such expenditure was made or borne by the person liable for taxation upon the mine under this Act, and
 - (iii) that separate accounts of such expenditure are kept and furnished in reasonable detail with the return required under section 6;
- (m) donations actually made for charitable, educational or patriotic purposes that are approved by the mine assessor; and
- (n) an allowance for the cost of development of the mine of 10 per cent per annum of the capitalized cost of development, provided,
 - (i) that such mine came into production after the 1st day of January, 1965,
 - (ii) that the ore taken from the mine is beneficiated, at least to the smelter stage, in Canada,
 - (iii) that it is assumed that 10 per cent of the cost of such development has been written off for each taxation

year of production prior to the first taxation year in which the ore or part thereof is or has been treated to at least the smelter stage in Canada or prior to the taxation year ending in the year 1969, whichever is the later, and

- (iv) that if any portion of the ore has been or will be smelted outside Canada, then only that proportion of the annual allowance for the cost of development work that the selling value of the product of the ore treated to at least the smelter stage in Canada bears to the selling value of all products of the mine will be permitted as a deduction. R.S.O. 1960, c. 242, s. 3 (3); 1968-69, c. 69, s. 2 (3).

(4) The Lieutenant Governor in Council may exempt any ore taken from a mine from the provisions of subclauses ii, iii and iv of clause *n* of subsection 3. 1968-69, c. 69, s. 2 (4).

Exemption
of ore
under
subs. 3,
cl. *n*

(5) No allowance or deduction shall be made in respect of,

Allowances
and deduc-
tions not
permitted

- (a) cost of plant, machinery, equipment or buildings except as provided in subsection 3;
- (b) capital invested, or interest or dividend upon capital or stock or investment;
- (c) depreciation in the value of the mine, mining land or mining property by reason of exhaustion or partial exhaustion of the ore or mineral;
- (d) royalties paid for or in respect of the output of a mine situated on lands not the property of the Crown; and
- (e) cost of development of the mine liable for taxation under this Act before the commencement of output therefrom, except as provided in clause *n* of subsection 3. R.S.O. 1960, c. 242, s. 3 (4); 1968-69, c. 69, s. 2 (5).

(6) In determining the amount of the tax under this section where the period of production is, in the opinion of the mine assessor, for a period of less than twelve months, the amount of the profit for the period of production shall be multiplied by the quotient of 365 divided by the number of days of production, and the rates mentioned in subsection 1 shall be applied to the product thereof in the same manner as though such product was the true profit for the taxation year, and the amount so determined shall be multiplied by the quotient of the number of days of production divided by 365. R.S.O. 1960, c. 242, s. 3 (6).

Part-year
production

4.—(1) The owner, manager, holder, lessee, tenant, occupier and operator of every mine, from which ore, minerals or mineral-bearing substances is or are being taken, shall, within ten days after the commencement of such active operations, notify the

Duty to give
notice of
active
operations

Department of the fact that the mine is in active operation, and shall give in such notice its name and the name and address of its owner, manager, holder, lessee, tenant, occupier and operator, and the name and address of its manager, or of some other person, to whom notices to be given under this Act may be sent (to be known as the name and address for service) and shall forthwith notify the Department of every change in the name and address of such manager or person, and of every change in the ownership, management, holding, tenancy, occupation or operation of the mine, and of every discontinuance of active operations, and of every recommencement thereof after discontinuance.

List of
mines

(2) From the information so given and from any other available source, the Department shall prepare and keep a list showing all operating mines in Ontario, with the names and addresses and particulars as so notified and given (keeping in a distinct and separate column or place the name and address for service), and any notice or requisition required or provided for by this Act shall be deemed to have been properly and sufficiently given and served if mailed by registered letter to the person whose name and address for service have been given at such address or, in case such a name and address be not so notified, then if mailed by registered letter to the address that the official or person sending the notice or requisition thinks most likely to reach the proper person. R.S.O. 1960, c. 242, s. 4.

Shipping
forbidden
before
notice

5. No person shall ship, send, take or carry away, or permit to be shipped, sent, taken or carried away, from the mine from which the same has been taken any ore, mineral or mineral-bearing substance, or any product thereof, until he has notified the Department that the mine from which it has been taken is in active operation. R.S.O. 1960, c. 242, s. 5.

Return

6.—(1) Every person liable to pay the tax imposed by section 3 shall, on or before the last day of the month that ends six months following the close of the taxation year, without notice or demand, and every person whether or not liable to pay the tax imposed by section 3 shall, upon receipt of a notice or demand in writing from the mine assessor or from any officer of the Department authorized by the Minister to make such demand, deliver to the Department such return as may be required by the mine assessor.

Idem

(2) The return shall contain an estimate of the tax payable and shall be verified by a certificate stating that the information included in the return is in agreement with the books required to be kept under section 7, and such certificate shall be signed by an officer who has personal knowledge of the affairs of the mine, but the mine assessor may require such return or any part thereof to be made or verified under oath. R.S.O. 1960, c. 242, s. 6.

7.—(1) Every person liable to pay the tax imposed under section 3 shall keep, at or near the mine, proper books of account of the ore, minerals or mineral-bearing substances taken from the mine, containing the quantity, weight and other particulars of the same and the value thereof, and showing the returns from the smelter, refinery or mill, or other returns of the amounts derived from the sale of such ores, minerals and mineral-bearing substances; and no ore, mineral or mineral-bearing substance taken out of any mine shall be removed therefrom or treated at any smelter, refinery or mill until the weight thereof has been correctly ascertained and entered in the books of account; and such person shall also keep proper books showing each of the several expenses, payments, allowances and deductions mentioned in section 3, and showing any other facts and circumstances necessary or proper for ascertaining the amount of such tax.

Books to be kept

(2) If any doubt arises as to where such books are to be kept, or as to how many, or what books are to be kept, the mine assessor shall determine the number and character of the books to be kept and the place at which they are to be kept. R.S.O. 1960, c. 242, s. 7.

Power of mine assessor as to books

8. The Lieutenant Governor in Council may from time to time appoint one or more officers under this Act, to be known as a mine assessor or mine assessors, and the Minister may from time to time appoint any officer or person to perform for the time being, or to perform in any locality or in any special matter or case, the duties of mine assessor, and every such officer or person shall be deemed an officer of the Department, and it is his duty, subject to the direction of the Minister, annually, and oftener if so required, to prepare lists and descriptions of and ascertain and report the facts and particulars concerning all mines, mining properties and mining rights liable, or which might be liable, to taxation under this Act, and to furnish the same to the Department, and to make such investigations and perform such other duties as are provided for by this Act or as may be prescribed by the Minister. R.S.O. 1960, c. 242, s. 8.

Mine assessors' duties

9. It is lawful at all times for a mine assessor to enter upon mining premises for the purpose of making inquiries, obtaining information and otherwise performing his duties under this Act, and for any of these purposes he may descend all pits and shafts, and use all tackle, machinery, appliances and things belonging to the mine as he considers necessary or expedient, and he shall be given free ingress and egress to, from and over all buildings, erections and vessels used in connection with the workings, and he shall from time to time be allowed to take from the mining premises such samples or specimens as he desires for the purpose of determining by assay or otherwise the value of the ore, minerals

Assessors may enter mines

or mineral-bearing substances being taken therefrom, or any product thereof, and he shall be given full and complete access to all books of account and letters kept or used for or in connection with the work and business of the mine, and may examine the same and take copies thereof or extracts therefrom, but any information of a private or confidential nature acquired by an assessor under this section shall not be communicated or disclosed to anyone except so far as is necessary for the purposes of this Act. R.S.O. 1960, c. 242, s. 9.

Preparation
of tax roll

10.—(1) A mine assessor or other officer or person acting under the direction of the Minister shall, as soon as practicable after sending the assessment notices under section 11, prepare a tax roll showing all mines and persons assessed for the taxes imposed under section 3 and showing the quantity and value of output from each mine, the amount of deductions therefrom under various headings as far as is practicable, the profits for which each mine and person is assessed and the amount of tax payable by each.

Appeal

(2) Where the person liable for the payment of tax under section 3 is not satisfied with the notice of assessment of such tax sent under section 11, he may appeal the assessment, as provided in subsection 4, within fifteen days after the mailing of the notice. 1968-69, c. 69, s. 3 (1).

Finalization
of tax roll

(3) When the time for filing such appeal has expired, the cases appealed shall be marked or distinguished from the others on the roll, and the roll shall thereupon be made up in duplicate, and the Minister shall by his signature authenticate it as being the roll for the year, and subject to the determination of appeals, and subject to any additions or alterations that may be made by or pursuant to any investigation that may be ordered or directed as hereinafter provided for, the roll is final and conclusive as to the liability of the several mines and persons therein mentioned to pay the tax therein specified. R.S.O. 1960, c. 242, s. 10 (2).

Notice of
appeal

(4) An appeal under subsection 2 shall be made by lodging with the Department within the time limited a notice in writing stating that the appellant thereby appeals from the tax in question, and stating as far as practicable the grounds of appeal or the particulars of objection to the tax, and the appeal shall be referred in writing by the Minister to the Mining Commissioner or to the Ontario Municipal Board, to be tried and determined. R.S.O. 1960, c. 242, s. 10 (3); 1968-69, c. 69, s. 3 (2).

Hearing of
appeal

(5) The Mining Commissioner or the Ontario Municipal Board shall, upon receiving a reference under subsection 4, proceed to try and dispose of the appeal, or determine or inquire into and investigate the question or matter so referred or directed

to be investigated, and for all and any of such purposes has the same power to enforce the attendance of witnesses, and to compel them to give evidence, and produce documents and things, as is vested in any court in civil cases, and the decision of the Mining Commissioner or the Ontario Municipal Board, after giving the parties an opportunity to be heard, is for the purposes of this Act final and conclusive as to the particulars therein mentioned, subject only as hereinafter in this section provided. R.S.O. 1960, c. 242, s. 10 (5); 1968-69, c. 69, s. 3 (4).

(6) In any such proceedings or investigation, or on an appeal, the Mining Commissioner or the Ontario Municipal Board may order the appellant, or the person causing the investigation by reason of false or incorrect statements, or failure to keep books and accounts or to otherwise conform to this Act, to pay the costs of such appeal, proceeding or investigation, and may direct that they be taxed by a taxing officer of the Supreme Court and added to the tax for which such person is liable under this Act. Costs

(7) All decisions, findings and reports made by the Mining Commissioner or the Ontario Municipal Board pursuant to this section shall be filed with the Department, and notice of the filing shall forthwith thereafter be mailed by the Department to the owner or manager of the mine concerned. R.S.O. 1960, c. 242, s. 10 (6, 7). Filing
decision

(8) In any case where the amount of the tax involved exceeds \$1,000, an appeal lies from any decision, finding or report of the Mining Commissioner or the Ontario Municipal Board under this section to the Court of Appeal; provided that notice of such appeal is lodged with the Department within fifteen days after the filing of such decision, finding or report with the Department, and the procedure upon and governing such appeal shall be, as far as may be, the same as upon an appeal to the Court of Appeal in an action but leave is not necessary. R.S.O. 1960, c. 242, s. 10 (8), *amended*. Appeal to
Court
of Appeal

(9) Where an appeal is taken under this section, the amount by which the amount of tax finally determined is more or less than the amount then paid shall be payable by or remitted to the person liable for such tax, as the case may be, forthwith. R.S.O. 1960, c. 242, s. 10 (9). Adjustment
of tax after
appeals

11.—(1) The mine assessor, after examining the return delivered under section 6, shall send a notice of assessment to the person liable for the tax payable by section 3 confirming or altering the amount of the tax as estimated in the return and any tax found to be payable over the estimated amount shown in the return shall be paid within one month after the mailing of the notice of assessment, whether or not an appeal is taken under section 10. Notice of
assessment

Refunds

(2) Where the amount of the tax is found to be less than the amount then paid, the amount by which such payment is more than the tax shall be remitted forthwith to the person liable for such tax. R.S.O. 1960, c. 242, s. 11.

Payment of
municipal or
school
board tax
underR.S.O. 1970,
c. 32

12. Where a person who is liable for payment of tax under section 3 is also during any year in which such tax is payable liable to a municipality or a school board of a school section in territory without municipal organization for a tax under subsection 4 of section 28 of *The Assessment Act*, the amount of the tax under such subsection 4 shall be paid, subject to an appeal under section 10, to the municipality or school board out of the tax paid under section 3. 1968-69, c. 69, s. 4.

Compromise
of tax

13. In case any doubt or dispute arises as to the liability of any person to pay a tax or any part of a tax demanded under this Act, or where owing to special circumstances it is considered inequitable to demand payment of the whole amount imposed under this Act, the Lieutenant Governor in Council may compromise the matter by the acceptance of such amount as he considers proper; and in case the tax claimed has been paid under protest he may refund it or any part of it to the person making such payment. R.S.O. 1960, c. 242, s. 13; 1968-69, c. 69, s. 5.

Remission
of tax on
iron ore
profits

14. The Lieutenant Governor in Council may remit the tax under section 3 upon the profits arising out of the mining of iron ore where he is satisfied that the iron ore has been smelted in Canada or delivered to a blast furnace therein for the purpose of being smelted. 1968-69, c. 69, s. 6.

PART II

NATURAL GAS

Tax on
natural gas

15.—(1) Every person producing natural gas is liable for and shall pay an annual tax as follows:

1. Where exported from Canada—2 cents a thousand cubic feet.
2. Where consumed in Canada—one-half cent a thousand cubic feet. R.S.O. 1960, c. 242, s. 15 (1).

Remission
of tax

(2) The Lieutenant Governor in Council may remit the annual tax to the extent of \$250 on natural gas consumed in Canada. R.S.O. 1960, c. 242, s. 15 (2); 1968-69, c. 69, s. 7.

Books to
be kept

16. The owner, lessee, tenant, occupier or operator of one or more wells shall keep a book continuously at a place in Ontario fixed by the mine assessor in which he shall truly and faithfully

record the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells operated by him. R.S.O. 1960, c. 242, s. 16.

17.—(1) The mine assessor may inspect at any time all apparatus and machinery used in connection with any well, for the purpose of estimating or ascertaining the quantity of gas flowing, drawn or pumped from or produced by any well. Inspection apparatus

(2) The mine assessor may examine at any time the book referred to in section 16 and may call for and examine all books, records and memoranda, whether the same are required by law to be kept or not, kept by the owner, lessee, tenant, occupier or operator or any one or more of them, for the purpose of ascertaining the quantity of gas flowing, drawn or pumped from or produced by any well; and the owner, lessee, tenant, occupier or operator shall forthwith upon demand produce to the mine assessor all such books, records and memoranda for the purposes aforesaid. R.S.O. 1960, c. 242, s. 17. Books

18.—(1) If the mine assessor has reason to believe that the amount of gas produced by any well is not correctly shown by the book required to be kept, or by other books, records or memoranda as aforesaid, he may direct that a meter shall be affixed by the owner, lessee, tenant, occupier or operator to every main pipe or duct through which all of the gas flowing, drawn or pumped from the well or wells passes, so as to indicate the total gross quantity of gas flowing, drawn or pumped from, or produced by the well or wells. When meter to be affixed

(2) The meter may be inspected and tested at any time by or at the request of the mine assessor for the purpose of ascertaining whether it correctly records the quantity of gas flowing, drawn or pumped from, or produced by the well or wells, and in case he finds that it is not truly recording the quantity of gas flowing, drawn or pumped from, or produced by the well or wells, he may by a writing under his hand order that it be put in order forthwith so as to furnish a true record, or he may order that a new meter be affixed forthwith to the pipe or duct; and the owner, lessee, tenant, occupier or operator shall cause the order to be obeyed forthwith. Defective meters to be remedied

(3) If the mine assessor finds that the meter is so placed that the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells does not pass through the meter, he may by a writing under his hand order that it be so placed that all of the gas proceeding from the well or wells passes through it, and the owner, lessee, tenant, occupier or operator shall cause the order to be obeyed forthwith. R.S.O. 1960, c. 242, s. 18. Meter not correctly placed

Return

19.—(1) Every person liable to pay the tax imposed by section 15 shall, on or before the last day of the month that ends six months following the close of the taxation year, without notice or demand, and every person whether or not liable to pay the tax imposed under section 15 shall, upon receipt of a notice in writing from the mine assessor or from any officer of the Department authorized by the Minister to make such demand, deliver to the Department such return as may be required by the mine assessor.

Idem

(2) The return shall contain an estimate of the tax payable and shall be verified by a certificate stating that the information included therein is in agreement with the book required to be kept under section 16, and such certificate shall be signed by an officer or person who has personal knowledge of the affairs of the well or wells, but the mine assessor may require such return to be made or verified under oath. R.S.O. 1960, c. 242, s. 19.

Notice of
assessment,
under-
payments

20.—(1) The mine assessor, after examining the return delivered under section 19, shall send a notice of assessment to the person liable for the tax imposed by section 15 confirming or altering the amount of the tax as estimated in the return, and any tax found to be payable over the estimated amount shown in the return shall be paid within one month after the mailing of the notice of assessment whether or not an appeal is taken under section 21.

Refunds

(2) Where the amount of the tax is found to be less than the amount then paid, the amount by which such payment is more than the amount of the tax shall be remitted forthwith to the person liable for such tax. R.S.O. 1960, c. 242, s. 20.

Disputed
notice

21.—(1) If the owner, lessee, tenant, occupier or operator appeals the notice given under section 20, the dispute shall be heard by the Mining Commissioner or the Ontario Municipal Board as the Minister may direct, and the decision of the Mining Commissioner or Board, as the case may be, is final and conclusive, and the quantity so found shall be entered on the return required under section 19 as the true quantity and the tax for such period shall be computed thereon.

Adjustment

(2) Where an appeal is taken under subsection 1, the amount by which the amount of tax finally determined is more or less than the amount then paid is payable by or shall be remitted to the person liable for such tax, as the case may be, forthwith. R.S.O. 1960, c. 242, s. 21.

Exemption
of municipal
corporation

22. A municipal corporation shall not be required to pay any tax under this Part upon any gas actually used in Canada. R.S.O. 1960, c. 242, s. 22.

PART III

GENERAL

23.—(1) Where the amount paid on account of tax payable under this Act by a person for a taxation year, before the expiration of the time allowed for delivering of the return under section 6 or section 19, is less than the amount of tax payable for the taxation year, the person liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at the rate of 6 per cent per annum.

Interest
on unpaid
tax

(2) Where a person is required by subsection 1 of section 2 to pay a tax imposed by this Act and he has failed to pay all or any part thereof as required, the person, in addition to the interest payable under subsection 1, shall pay interest on the amount he failed to pay at 6 per cent per annum from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under subsection 1, whichever is earlier.

Idem

(3) Where any tax imposed under this Act is not paid at the time provided, 10 per cent shall be added thereto forthwith and 10 per cent shall be added on the same day of each year thereafter so long as the tax remains unpaid, and such additional amounts shall for all purposes be deemed to be a tax payable under this Act. R.S.O. 1960, c. 242, s. 23.

10 per cent
to be added
for default

24. Every person who is required to deliver a return under section 6 or to furnish a statement under section 19 shall, in case of failure to deliver the return or furnish the statement, as the case may be, incur a penalty of \$20 per day for each day during which the default continues, which penalty shall be added to and become part of the tax payable under this Act, and every such person is also liable to pay a tax of double the amount otherwise payable, and any such penalty and double tax shall be recovered from any person liable therefor in an action brought in the name of the Minister to be tried by a judge without a jury. R.S.O. 1960, c. 242, s. 24.

Penalty for
failure to
comply with
s. 6 or 19

25. If any order made under subsection 2 or 3 of section 18 is not complied with within a reasonable time after it has been delivered, the owner, lessee, tenant, occupier or operator is liable to a penalty of \$10 for every day from the delivery of the order until it is complied with, to be recovered with costs by action at the suit of the Minister in any court of competent jurisdiction as a debt due, and the owner, lessee, tenant, occupier or operator is also liable for double the tax computed upon the amount of gas

Penalty for
non-compli-
ance with
orders

estimated by the mine assessor to be passing through the pipe or duct during such period. R.S.O. 1960, c. 242, s. 25.

Special lien
and priority
of the tax

26. All taxes, double taxes, added percentages, penalties and costs payable under this Act are a special lien on the mine and upon the gas well or wells and the leases of and rights respecting the same and upon all machinery upon or connected with the mine or gas well or wells in priority to every claim, privilege, lien or encumbrance of any person, whether the right or title of such person has accrued before or accrues after the attaching of such lien, and its priority shall not be lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, and such lien may be realized by action for sale of any or all property, leases and rights subject to such lien. R.S.O. 1960, c. 242, s. 26; 1968-69, c. 69, s. 8.

Action to
recover tax

27. If any tax imposed under this Act is not paid when due, the same, together with all additions of percentage, double tax, penalties and costs payable under this Act, may be recovered from the owner, lessee, tenant, occupier or operator of the mine or well by an action at the suit of the Minister in any court of competent jurisdiction, together with the costs of the action. R.S.O. 1960, c. 242, s. 27.

Injunction
or receiver

28.—(1) In addition to any other remedy for the recovery of any tax imposed under this Act, an injunction or an order in the nature of an injunction or the appointment of a receiver with all necessary powers, or such other relief or remedy as seems necessary or expedient for securing payment of the tax, may, in any case where any tax under this Act is overdue or where the payment of any accrued or future tax seems endangered, be obtained in the Supreme Court or county or district court at the instance and in the name of the Minister to prevent the removal, transportation or transmission of any ore, mineral or mineral-bearing substance, or natural gas, or to prevent or restrict mining operations or the production or waste of natural gas, or to provide for such operations or production upon such terms and conditions as seem proper.

Closing up
natural gas
well where
tax
endangered
by waste

(2) Where natural gas is wasting in such quantity that the mine assessor considers that payment of any tax due or to become due thereon is endangered, he may give notice in writing to the owner or person in charge of the well from which the gas is flowing, or may post up notice at or near such well requiring stoppage of the waste, and if the waste is not effectively prevented within six days thereafter the mine assessor may, with the consent of the Minister, forthwith close up or direct and procure the closing up of such well in such way as he considers suitable and proper, and the mine assessor has all rights and powers necessary therefor, and

the expenses of the closing up as certified by the mine assessor shall, subject to appeal as provided by section 10, be added to and be deemed part of the tax under this Act. R.S.O. 1960, c. 242, s. 28.

29. Any action that may be brought under this Act may be brought by the Minister as plaintiff, and it is not necessary to name the Minister, and the action does not abate by reason of a change in the person of the Minister or by reason of the office being vacant at any time, but the action may proceed as though no change had been made or no vacancy existed. R.S.O. 1960, c. 242, s. 29.

Action by
Minister
does not
abate

30. Where default is made in the payment of any taxes imposed under this Act, the taxes, together with all additions of percentage, double tax, penalties and costs, may be levied and collected by distress, together with costs of distress, upon the goods and chattels wherever found of the person or any person liable therefor, under warrant signed by the Minister or Deputy Minister, directed to the sheriff of any county or district in which the person in arrear may have any goods or chattels, and in such case the sheriff shall realize the amount directed to be realized by the warrant and all costs by sale of such goods or so much thereof as may be necessary to satisfy the amount directed to be levied by such warrant. R.S.O. 1960, c. 242, s. 30.

Distress

31. Every person knowingly making or signing any false statement or furnishing any false or incorrect information to the Department or a mine assessor or giving any other false or incorrect information to any officer or person in respect to any other matter or thing required under this Act, or keeping or causing to be kept any false or incorrect book or accounts regarding anything required under this Act, with intent to deceive is, in addition to any other liability, guilty of an offence and on summary conviction is liable to a fine of \$200. R.S.O. 1960, c. 242, s. 31.

Offence, false
information

32. Every person contravening section 5 and every person contravening section 9 by communicating or disclosing any information contrary to the provisions thereof is guilty of an offence and on summary conviction is liable to a fine of \$50. R.S.O. 1960, c. 242, s. 32.

Offence,
disclosing
information,
etc.

CHAPTER 276

The Minors' Protection Act

1.—(1) No person shall either directly or indirectly sell or give or furnish to a child under eighteen years of age cigarettes, cigars or tobacco in any form. Supplying tobacco

(2) This section does not apply to a sale to a child for his parent or guardian under a written request or order of the parent or guardian. R.S.O. 1960, c. 243, s. 2. Exception

2.—(1) Every person who contravenes any of the provisions of this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$2 and not more than \$50. Offence

(2) Prosecutions under this Act shall be tried in a provincial court (family division). Primary jurisdiction in provincial court (family division)

(3) A person who appears to the court to be under eighteen years of age shall be deemed to be under that age unless it is found that he is in fact over that age. R.S.O. 1960, c. 243, s. 3, *amended*. Presumption as to age

CHAPTER 277

The Moosonee Development Area Board Act

1. In this Act,

Interpre-
tation

- (a) "Board" means The Moosonee Development Area Board;
- (b) "Development Area" means the area defined in Schedule A;
- (c) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council. 1966, c. 89, s. 1.

2.—(1) The Moosonee Development Area Board is continued as a corporation without share capital. 1966, c. 89, s. 2 (1), amended.

Board,
continued

(2) The Board shall consist of five members appointed and designated as chairman, vice-chairman and members by the Lieutenant Governor in Council.

composition

(3) Three members of the Board constitute a quorum.

quorum

(4) If a vacancy occurs on the Board through death, resignation or otherwise, the vacancy may be filled and the members may be redesignated by the Lieutenant Governor in Council

vacancy

(5) The Board shall be deemed to be a local board for the purposes of *The Ontario Municipal Employees Retirement System Act*. 1966, c. 89, s. 2 (2-5).

deemed
local board
under
R.S.O. 1970,
c. 324

(6) The Board shall appoint a secretary-treasurer who may be a member of the Board, who shall hold office during pleasure and, with respect to the Development Area, has the powers and shall perform the duties of the clerk, treasurer and collector of a municipality. 1968-69, c. 70, s. 1.

Secretary-
treasurer

3. For the purposes of every Act, the Board, in respect of the purposes specified in Schedule B, has, in the Development Area, all the powers and duties of the council of a township including, but without limiting the generality of the foregoing, the power to levy, impose and collect taxes and rates, and, when any such power or duty is exercised under any Act in respect of any of such purposes, the Act applies *mutatis mutandis*. 1966, c. 89, s. 3; 1968-69, c. 70, s. 2.

Powers of
Board

Further powers of Board

4. In addition to the powers provided in section 3, the Board may,

- (a) acquire and hold land within the Development Area for development purposes;
- (b) survey, clear, grade, subdivide and service such land; and
- (c) sell, lease or otherwise dispose of such land. 1968-69, c. 70, s. 3.

District assessor
R.S.O. 1970, c. 32

5. The Development Area is a locality for the purposes of *The Assessment Act*. 1966, c. 89, s. 4, *amended*.

Application of
R.S.O. 1970, c. 118

6. The Board is subject to Part III of *The Department of Municipal Affairs Act* as though it were a municipality. 1966, c. 89, s. 5.

Grants

7. The Minister may make grants to the Board out of the moneys appropriated therefor by the Legislature. 1966, c. 89, s. 6, *amended*.

Application of
R.S.O. 1970, c. 370

8. *The Provincial Land Tax Act* does not apply to the Development Area. 1966, c. 89, s. 7.

Board not municipality under
R.S.O. 1970, c. 323

9. Except as otherwise provided in this Act, the Board is not a municipality under *The Ontario Municipal Board Act*. 1966, c. 89, s. 8.

Development Area deemed municipality under
R.S.O. 1970, cc. 325, 323

10. For the purposes of *The Ontario Municipal Improvement Corporation Act* and sections 57, 58, 59, 60 and 61 of *The Ontario Municipal Board Act*, the Board shall be deemed to be a municipality and the approval of the Department of Municipal Affairs shall be deemed to be an approval of the Ontario Municipal Board under sections 64 and 65 of *The Ontario Municipal Board Act*. 1966, c. 89, s. 9.

Development Area remains territory

11. The Development Area shall remain territory without municipal organization. 1966, c. 89, s. 10.

Application of
R.S.O. 1970, c. 89

12. *The Corporations Act* does not apply to the Board. 1966, c. 89, s. 11.

Regulations

13. The Lieutenant Governor in Council may make regulations amending Schedule B. 1966, c. 89, s. 12.

SCHEDULE A

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the District of Cochrane and Province of Ontario, being composed of the whole of the geographic townships of Caron, Horden and Moose, including the Moosonee Townsite, part of the right-of-way of the Ontario Northland Transportation Commission and part of the Moose River, which said parcel or tract of land may be more particularly described as follows:

COMMENCING at the southwest angle of the said Township of Horden;

THENCE due north astronomically along the west boundary of the said township being along the centre line of the allowance for road between the townships of Winnington and Horden as established by Ontario Land Surveyor H. W. Sutcliffe in the year 1932, a distance of 1 mile (5,280 feet) to the 1-mile post;

THENCE North $0^{\circ} 00.7'$ East astronomically, continuing along the west boundary of the said Township of Horden being along the centre line of the road allowance between the townships of Winnington and Horden as established by the said H. W. Sutcliffe in the year 1932, a distance of 20 chains (1,320 feet);

THENCE due north astronomically continuing along the centre of the road allowance between the townships of Winnington and Horden as established by the said H. W. Sutcliffe in the year 1932, a distance of 300 chains (19,800 feet) to the 5-mile post;

THENCE North $0^{\circ} 00.5'$ East astronomically, continuing along the west boundary of the said Township of Horden, being along the centre line of the allowance for road between the townships of Winnington and Horden as established by the said H. W. Sutcliffe in the year 1932, a distance of 1 mile (5,280 feet) to the 6-mile post;

THENCE due north astronomically continuing along the west boundary of the said Township of Horden as established by the said H. W. Sutcliffe in the year 1932, a distance of 1 mile (5,280 feet) to the 7-mile post;

THENCE North $0^{\circ} 00.1'$ West astronomically, continuing along the west boundary of the said Township of Horden, as established by the said H. W. Sutcliffe in the year 1932, a distance of 40.0 chains (2,640 feet) to a post;

THENCE due north astronomically continuing along the west boundary of the said Township of Horden, being along the centre line of the allowance for road between the townships of Winnington and Horden, as established by the said H. W. Sutcliffe in the year 1932, a distance of 40 chains (2,640 feet) to the 8-mile post;

THENCE North $0^{\circ} 00.4'$ West astronomically continuing along the west boundary of the said Township of Horden, being along the centre of the allowance for road between the townships of Winnington and Horden, as established by the said H. W. Sutcliffe in the year 1932, a distance of 80 chains (5,280 feet) to the northwest angle of the said Township of Horden and the southwest angle of the Township of Caron;

THENCE North $0^{\circ} 00.4'$ West along the west boundary of the Township of Caron, being along the centre line of the allowance for road between the townships of Caron and Greer, as established by Ontario Land Surveyor H. W. Sutcliffe in the year 1932, a distance of 5.0 miles (26,400 feet) to a point;

THENCE North $0^{\circ} 01.3'$ West astronomically continuing along the west boundary of the Township of Caron, as established by the said H. W. Sutcliffe in the year 1932, a distance of 40 chains (2,640 feet) to a point;

THENCE due north continuing along the west boundary of the Township of Caron, being along the boundary between the townships of Caron and Greer, as established by the said H. W. Sutcliffe in the year 1932, a distance of 279.39 chains (18,439.74 feet) more or less to the northwest angle of the Township of Caron;

THENCE North $89^{\circ} 59'$ East, astronomically, along the north boundary of the said Township of Caron, as established by Ontario Land Surveyor H. W. Sutcliffe in the year 1932, a distance of 77.98 chains (5,146.68 feet) to the 8-mile post;

THENCE due east, astronomically, continuing along the north boundary of the Township of Caron, as established by the said H. W. Sutcliffe in the year 1932, a distance of 80.00 chains (5,280 feet) to the 7-mile post;

THENCE South $89^{\circ} 59.5'$ East, astronomically, continuing along the north boundary of the Township of Caron, as established by the said H. W. Sutcliffe in the year 1932, a distance of 80.00 chains (5,280 feet) to the 6-mile post;

THENCE due east, astronomically, continuing along the north boundary of the Township of Caron, as established by the said H. W. Sutcliffe in the year 1932, a distance of 6.0 miles (31,680 feet) more or less, to the northeast angle of the Township of Caron and the northwest angle of the Township of Moose;

THENCE due east, astronomically, along the north boundary of the said Township of Moose, as established by Ontario Land Surveyor H. W. Sutcliffe in the year 1932, a distance of 2 miles (10,560 feet) to the 2-mile post;

THENCE North $89^{\circ} 59.7'$ East, astronomically, continuing along the north boundary of the said Township of Moose, as established by the said H. W. Sutcliffe in the year 1932, a distance of 20 chains (1,320 feet);

THENCE due east, astronomically, continuing along the north boundary of the said Township of Moose, as established by the said H. W. Sutcliffe in the year 1932, a distance of 300 chains (19,800 feet) to the 6-mile post;

THENCE South $89^{\circ} 59.8'$ East, astronomically, continuing along the north boundary of the said Township of Moose, as established by the said H. W. Sutcliffe in the year 1932, a distance of 40 chains (2,640 feet);

THENCE due east, astronomically, continuing along the north boundary of the said Township of Moose, as established by the said H. W. Sutcliffe in the year 1932, a distance of 169 chains (11,154 feet) to the extreme high tide line of James Bay;

THENCE due east, astronomically, continuing along the north boundary of the said Township of Moose, a distance of 82.13 chains (5,420.58 feet) more or less to the normal high tide line or shore of James Bay;

THENCE southerly and southeasterly along the shore of James Bay and along the north shore of Ship Sands Island and continuing southeasterly to a point in Moose River along a line joining the northeasterly extremity of Ship Sands Island and Arnold Point, distant one mile (5,280 feet) measured southeasterly at right angles from the southeast shore of the said Island;

THENCE southwesterly parallel with the southeast shore of Ship Sands Island and continuing southwesterly parallel with the left bank of the Moose River and distant 1 mile (5,280 feet) measuring southeasterly at right angles to the said bank, to the intersection of said parallel line with the easterly prolongation of the south boundary of the Township of Horden;

THENCE North $89^{\circ} 55'$ West, astronomically, along the last-mentioned prolongation to the westerly limit of the road allowance along the north bank of Moose River;

THENCE continuing North $89^{\circ} 55'$ West, astronomically, along the south boundary of the said Township of Horden, being along the centre line of the allowance for road between the townships of Horden and Parr, as established by Ontario Land Surveyor H. W. Sutcliffe in the year 1932, a distance of 89.31 chains (5,894.46 feet) more or less, to the point of commencement. 1968-69, c. 70, s. 4.

SCHEDULE B

1. The provision, maintenance and operation of sewer and water services.
 2. The provision and maintenance of highways, including drainage thereof and the regulation and control of traffic therein or thereon.
 3. The collection, removal and disposal of garbage and other refuse.
 4. All the purposes of *The Planning Act*.
 5. The provision, maintenance and operation of fire protection services.
 6. The provision, maintenance and operation of street lighting.
 7. The provision, maintenance and operation of parks, community centres and programs of recreation.
 8. The purposes of *The Municipal Act* with respect to trailers, trailer camps, trailer parks, tourist camps, motels, air harbours and landing grounds.
 9. The licensing, regulating and governing of owners and drivers of cabs, buses and motor vehicles and other vehicles used for hire and of persons keeping boats for hire.
 10. The purposes of Part I of *The Dog Tax and Live Stock and Poultry Protection Act*. 1966, c. 89, Sched. B; O. Reg. 377/69. s. 1.
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CHAPTER 278

The Mortgage Brokers Act

1. In this Act,

Interpretation

- (a) "Department" means the Department of Financial and Commercial Affairs;
- (b) "Director" means the Director of the Consumer Protection Division of the Department;
- (c) "Minister" means the Minister of Financial and Commercial Affairs;
- (d) "mortgage" has the same meaning as in *The Mortgages Act*; R.S.O. 1970, c. 279
- (e) "mortgage broker" means a person who carries on the business of lending money on the security of real estate, whether the money is his own or that of another person, or who holds himself out as or who by an advertisement, notice or sign indicates that he is a mortgage broker, or a person who carries on the business of dealing in mortgages;
- (f) "prescribed" means prescribed by this Act or the regulations;
- (g) "registered" means registered under this Act;
- (h) "Registrar" means the Registrar of Mortgage Brokers;
- (i) "regulations" means the regulations made under this Act;
- (j) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*. 1968-69, c. 71, s. 1. R.S.O. 1970, c. 113

2. This Act does not apply to,

Exemptions

- (a) corporations registered under *The Insurance Act* or *The Investment Contracts Act*; R.S.O. 1970, cc. 224, 226
- (b) corporations registered under *The Loan and Trust Corporations Act* that are not also registered under *The Real Estate and Business Brokers Act*; R.S.O. 1970, cc. 254, 401
- (c) banks under the *Bank Act* (Canada); 1966-67, c. 87 (Can.)
- (d) credit unions;
- (e) non-resident insurance companies loaning on the security of first mortgages or acquiring first mortgages of

R.S.O. 1970,
c. 89

Ontario real estate by virtue of a licence in mortmain or under section 370 of *The Corporations Act*;

- (f) an employee of a party to a mortgage transaction when the employee is acting for or on behalf of his employer. 1968-69, c. 71, s. 2.

Registrar

3.—(1) There shall be a Registrar of Mortgage Brokers who shall be appointed by the Lieutenant Governor in Council.

Duties of
Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. 1968-69, c. 71, s. 3.

Registration
required

4.—(1) No person shall carry on business as a mortgage broker unless he is registered by the Registrar under this Act.

Name and
place of
business

(2) A registered mortgage broker shall not carry on business in a name other than the name in which he is registered or invite the public to deal at a place other than that authorized by the registration.

Publica-
tion of
registration

(3) No person shall publish or cause to be published in writing any representation that he is registered under this Act.

Registered
real estate
brokers
R.S.O. 1970,
c. 401

(4) Every person who is registered as a real estate broker under *The Real Estate and Business Brokers Act* shall, so long as he is so registered, be deemed to be registered as a mortgage broker under this Act. 1968-69, c. 71, s. 4.

Registration
of mortgage
brokers

5.—(1) An applicant is entitled to registration or renewal of registration except where,

- (a) his financial responsibility or record of past conduct is such that it would not be in the public interest for the registration or renewal to be granted;
- (b) where the applicant is a corporation, its financial responsibility or the record of past conduct of the corporation or its officers or directors is such that it would not be in the public interest for the registration or renewal to be granted; or
- (c) the applicant is or proposes to be in contravention of this Act or the regulations.

Conditions
of registra-
tion

(2) A registration is subject to such terms and conditions as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1968-69, c. 71, s. 5.

Revocation

6.—(1) The Tribunal may, upon the application of the Registrar, suspend or revoke a registration for any reason that would

disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a condition of the registration.

(2) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration. 1968-69, c. 71, s. 6. Voluntary
cancellation

7.—(1) Where the Registrar refuses to issue or renew a registration or applies to the Tribunal to suspend or revoke a registration, he shall serve notice upon the applicant or registrant, together with written reasons for his refusal or for the proposed suspension or revocation, and the applicant or registrant may, by written notice served upon the Registrar and the Tribunal within fifteen days after the service of the notice of refusal or proposed suspension or revocation, require a hearing by the Tribunal. Hearing by
Tribunal

(2) Where the Registrar refuses to renew a registration, the applicant shall be deemed to continue to be registered until an order is made by the Tribunal or until the time for requiring a hearing by the Tribunal expires, whichever occurs first. Stay of
refusal
to renew

(3) The Tribunal shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed. Notice of
hearing

(4) The notice of hearing shall contain, Idem

- (a) a statement of the time and place of the hearing;
- (b) a statement of the statutory power under which the hearing is being held;
- (c) a reference to the rules of procedure applicable to the hearing;
- (d) a concise statement of the issues; and
- (e) a statement that, if a party who has been duly notified does not attend at the hearing, the Tribunal may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 71, s. 7.

8.—(1) The Registrar, the applicant or registrant and any other person specified by the Tribunal are parties to the hearing. Parties

(2) If a person who has been duly notified of a hearing does not attend, the Tribunal may proceed in his absence. 1968-69, c. 71, s. 8. Failure to
attend

9.—(1) A hearing may be adjourned from time to time by the Tribunal on reasonable grounds, Adjourn-
ment

- (a) on its own motion; or
- (b) on the motion of any party to the hearing.

- Subpoenas (2) The Tribunal may, in the prescribed form, command the attendance before it of any person as a witness.
- Oaths (3) The Tribunal may require any person,
(a) to give evidence on oath at a hearing; and
(b) to produce such documents and things as the Tribunal requires.
- Objection re self-incrimination
R.S.O. 1970, c. 151
R.S.C. 1952, c. 307 (4) An applicant or registrant giving evidence under oath before the Tribunal shall be advised of his right to object to answer any question under section 9 of *The Evidence Act* and section 5 of the *Canada Evidence Act*.
- Idem (5) The Tribunal may admit evidence not given under oath.
- Offences (6) Any person who, without lawful excuse,
(a) on being duly summoned as a witness before the Tribunal, makes default in attending; or
(b) being in attendance as a witness before the Tribunal refuses to take an oath legally required by the Tribunal to be taken, or to produce any document or thing in his power or control legally required by the Tribunal to be produced by him, or to answer any question to which the Tribunal may legally require an answer; or
(c) does any other thing that would, if the Tribunal had been a court of law having power to commit for contempt, have been contempt of that court,
is guilty of an offence punishable under subsection 7.
- Enforcement (7) The Tribunal may certify an offence under subsection 6 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1968-69, c. 71, s. 9.
- Right of party to counsel **10.** Any party may be represented before the Tribunal by counsel or agent. 1968-69, c. 71, s. 10.
- Right of witness to counsel **11.**—(1) Any witness may be represented before the Tribunal by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.
- Exclusion of counsel (2) Where a hearing is *in camera*, a counsel or agent for a witness shall be excluded except when that witness is giving evidence. 1968-69, c. 71, s. 11.

12. At a hearing before the Tribunal, any party may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions. 1968-69, c. 71, s. 12.

Right of parties at hearing

13.—(1) All hearings shall be open to the public except where the Tribunal finds that,

Hearings to be open to public; exceptions

(a) public security may be involved; or

(b) intimate financial or personal circumstances of any person may be disclosed,

in which case the Tribunal shall hold the hearing as to any such matters *in camera*.

(2) Notwithstanding the exceptions mentioned in clauses *a* and *b* of subsection 1, the Tribunal may, if in its opinion the public interest so requires, proceed without regard to such exceptions. 1968-69, c. 71, s. 13.

Idem

14. Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Tribunal within a reasonable time after the matter in issue has been finally determined. 1968-69, c. 71, s. 14.

Release of exhibits

15.—(1) The Tribunal may consider in reaching its decision any facts and information that are within its knowledge and that have not been introduced in evidence.

Specialized knowledge

(2) The Tribunal shall notify all parties to a proceeding of any facts or information referred to in subsection 1 and shall, before reaching its decision, give the parties an opportunity to contest before it any such facts or information.

Notice

(3) The Tribunal shall cause a notice containing a statement of such facts or information to be served upon all the parties. 1968-69, c. 71, s. 15.

Contents and service of notice

16. All oral evidence received by the Tribunal shall be taken down in writing and together with,

Record

(a) the notice of hearing;

(b) any rulings or orders made in the course of the proceedings of the Tribunal;

(c) any written submissions received by the Tribunal; and

(d) the decision and the reasons therefor,

form the record. 1968-69, c. 71, s. 16.

17.—(1) The Tribunal may, after the hearing,

Decision of Tribunal

(a) where the hearing is an appeal from a decision of the Registrar, by order confirm or alter the decision of the Registrar or direct the Registrar to do any act the

Registrar is authorized to do under this Act and as the Tribunal considers proper and for this purpose the Tribunal may substitute its opinion for that of the Registrar;

- (b) where the hearing is an application for suspension or revocation of a registration, dismiss the application or order that the registration be suspended or revoked,

and the Tribunal may attach such terms and conditions to its order or to the registration as it considers appropriate.

Decision
to be in
writing

(2) The final decision of the Tribunal, including the reasons therefor, shall be in writing.

Contents
of reasons
for decision

(3) The reasons for the final decision shall contain,

- (a) the findings of fact on the evidence and any information or knowledge used in reaching the decision;
- (b) any agreed findings of facts; and
- (c) the conclusions of law based on the findings mentioned in clauses *a* and *b*.

Notice of
decision

(4) The Tribunal shall cause to be served on the parties a copy of its final decision, including the reasons therefor, and a notice stating the rights of appeal. 1968-69, c. 71, s. 17.

Enforce-
ment of
decisions

18. A certified copy of the final decision of the Tribunal, exclusive of the reasons therefor, may be filed in the office of the Registrar of the Supreme Court whereupon it shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1968-69, c. 71, s. 18.

Appeal to
Court
of Appeal

19.—(1) Any party to the hearing before the Tribunal may appeal from the decision of the Tribunal to the Court of Appeal and the practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court.

Counsel

(2) The Minister may designate counsel to assist the court upon the hearing of an appeal under this section.

Decision
of court

(3) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Tribunal or direct the Registrar or the Tribunal to do any act the Registrar or the Tribunal is authorized to do under this Act and as the court considers proper, and the court may substitute its opinion for that of the Registrar and the Tribunal and may exercise the same powers as it exercises on an appeal from a judge of the High Court sitting without a jury. 1968-69, c. 71, s. 19 (1-3).

Stay

20. An order of the Tribunal refusing to renew or suspending or revoking a registration shall take effect immediately, but the

Tribunal may grant a stay until the order becomes final. 1968-69, c. 71, s. 20.

21. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. 1968-69, c. 71, s. 21. Further applications

22.—(1) Where the Registrar receives a complaint in respect of a mortgage broker and so requests in writing, the mortgage broker shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires. Investigation of complaints

(2) The request under subsection 1 shall indicate the nature of the inquiry involved. Idem

(3) For the purposes of subsection 1, the Registrar or any person designated in writing by him may at any reasonable time enter upon the business premises of the mortgage broker to make an inspection in relation to the complaint. 1968-69, c. 71, s. 22. Idem

23.—(1) The registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of the registrant to make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of trust accounts are being complied with. Inspection

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a mortgage broker while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 4. 1968-69, c. 71, s. 23. Idem

24.—(1) Upon an inspection under section 22 or 23, the person inspecting, Powers on inspection

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person being inspected; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissi-
bility of
copies

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. 1968-69, c. 71, s. 24.

Investiga-
tions

25.—(1) Where, upon a statement made under oath, it appears probable to the Director that any person has,

- (a) contravened any of the provisions of this Act or the regulations;
- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for registration under this Act;
- (c) by any false, misleading or deceptive statement or advertisement, representation or promise, or by any dishonest concealment of material facts, induced or attempted to induce any person to borrow money or to be responsible for the repayment thereof or to agree to the terms of any transaction with respect to money lent on the security of a mortgage; or
- (d) induced or attempted to induce any person to pay or be responsible for the payment of excessive or exorbitant fees or expenses in connection with a loan on the security of a mortgage,

1953-54,
c. 51 (Can.)

the Director may by order appoint one or more persons to make an investigation to ascertain whether such contravention, commission or conduct has occurred and shall report the result of his investigation to the Director.

Investiga-
tion by
order of
Minister

(2) Notwithstanding subsection 1, the Minister may by order appoint one or more persons to make an investigation into any matter relating to the business of lending money on the security of real estate or dealing in mortgages or for the due administration of this Act, and the person appointed shall report the result of his investigation to the Minister.

Scope of
investiga-
tion

(3) For the purpose of any investigation ordered under this section, any person appointed to make the investigation may at any reasonable time enter upon the business premises and may investigate, inquire into and examine the affairs of the person in respect of whom the investigation is being made and into any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or in connection with such person and into any property, assets or things owned, acquired or alienated in whole or in part by such person or by any person acting on behalf of or as agent for such person, and no person shall withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the investigation.

(4) Any person making an investigation under this section may, upon giving a receipt therefor, remove any document or record relating to the person whose affairs are being investigated and that relate to the subject-matter of the investigation, for the purpose of making a copy of such document or record, provided that such copying is carried out with reasonable dispatch and the document or record in question is promptly thereafter returned to the person whose affairs are being investigated.

Removal of records

(5) Any copy made as provided in subsection 4 and purporting to be certified by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original document or record.

Admissibility of copies

(6) The Minister or Director may appoint any expert to examine documents, records, properties and matters of any person whose affairs are being investigated under this Act.

Appointment of experts

(7) The investigator may, in the prescribed form, command the attendance before him of any person as a witness and subsections 2 to 6 of section 9 and section 11 apply to the investigator and the witness in the same manner as to the Tribunal and witnesses before it.

Evidence by witness

(8) No person, without the consent of the Minister, shall disclose, except to his counsel, any information or evidence obtained in the course of an investigation made under this section or the name of any witness examined or sought to be examined in such investigation.

Confidentiality

(9) Where, upon the report of an investigation made under subsection 1, it appears to the Director that a contravention, a commission of an offence or conduct referred to in subsection 1 has occurred, the Director shall make a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister. 1968-69, c. 71, s. 25.

Report to Minister

26.—(1) The Director may,

- (a) after an investigation of any person has been ordered under section 25; or
- (b) where criminal proceedings or proceedings in respect of a contravention of any Act or regulation are about to be or have been instituted against a person that in the opinion of the Director are connected with or arise out of the business in respect of which such person is registered or required to be registered,

Order to refrain from dealing with assets

in writing or by telegram, direct any person having on deposit or under control or for safe-keeping any assets or trust funds of the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from

withdrawing any such assets or trust funds from any other person having any of them on deposit, under control or for safe-keeping or to hold such assets or trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes such direction or consents to release any particular asset or trust fund from the direction, but, in the case of a bank or loan or trust company, the direction only applies to the offices, branches or agencies thereof named in the direction.

R.S.O. 1970,
cc. 228, 89, 53
R.S.C. 1952,
cc. 14, 296

Bond in
lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

R.S.O. 1970,
c. 196

in such form, terms and amount as the Director may determine.

Application
for
direction

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Notice to
registrar
of deeds,
etc.

(4) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Director may in writing or by telegram notify any registrar of deeds or master of titles that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice. 1968-69, c. 71, s. 26.

Notice of
changes

27.—(1) Every mortgage broker shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in his address for service;
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership.

Idem

(2) The registrar shall be deemed to be notified under subsection 1 on the day on which he is actually notified or, where the notification is by mail, on the day of mailing.

Financial
statements

(3) Every mortgage broker shall, when required by the Registrar with the approval of the Director, file a financial statement

showing the matters specified by the Registrar and signed by the mortgage broker and certified by a person licensed under *The Public Accountancy Act*. R.S.O. 1970, c. 373

(4) The information contained in a financial statement filed under subsection 3 is confidential and no person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. 1968-69, c. 71, s. 27. Statement confidential

28. Where, in the opinion of the Registrar, a mortgage broker is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and sections 7 to 19 apply to the order in the same manner as to a decision of the Registrar refusing registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1968-69, c. 71, s. 28. False advertising

29.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Department. Service

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing. Idem

(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal. 1968-69, c. 71, s. 29. Exception

30.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Court of Appeal from an order made under subsection 1. 1968-69, c. 71, s. 30. Appeal

31.—(1) Every person who, knowingly, Offences

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(b) fails to comply with any order, direction or other requirement made under this Act; or

(c) contravenes any provision of this Act or the regulations, and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Consent of
Minister

(3) No proceedings under this section shall be instituted except with the consent of the Minister.

Limitation

(4) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Idem

(5) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose. 1968-69, c. 71, s. 31.

Certificate
as evidence

32. A statement as to,

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or
- (d) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, document or material,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1968-69, c. 71, s. 32.

Regulations

33. The Lieutenant Governor in Council may make regulations,

- (a) exempting persons or classes of persons from this Act in addition to those exempted under section 2;
- (b) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (c) requiring the payment of fees on application for registration or renewal of registration and prescribing the amount thereof;

- (d) prescribing forms for the purposes of this Act and providing for their use;
 - (e) requiring and governing the maintenance of trust accounts by mortgage brokers and prescribing the moneys that shall be held in trust and the terms and conditions thereof;
 - (f) requiring and governing the books, accounts and records that shall be kept by mortgage brokers;
 - (g) prescribing the information that mortgage brokers shall furnish to borrowers;
 - (h) requiring mortgage brokers to make returns and furnish information to the Registrar;
 - (i) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;
 - (j) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
 - (k) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof. 1968-69, c. 71, s. 33.
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CHAPTER 279

The Mortgages Act

1. In this Act,

Interpre-
tation

- (a) "conveyance" includes assignment, appointment, lease, settlement and other assurance and covenant to surrender made by deed on a sale, mortgage, demise or settlement of any property or on any other dealing with or for any property; and "convey" has a corresponding meaning;
- (b) "encumbrance" includes a mortgage in fee or for a less estate, a trust for securing money, a lien, and a charge of a portion, annuity or other capital or annual sum; and "encumbrancer" has a corresponding meaning, and includes every person entitled to the benefit of an encumbrance, or to require payment or discharge thereof;
- (c) "land" includes tenements and hereditaments, corporeal or incorporeal, houses and other buildings, and also an undivided share in land;
- (d) "mortgage" includes any charge on any property for securing money or money's worth; "mortgage money" means money or money's worth secured by a mortgage; "mortgagor" includes any person deriving title under the original mortgagor or entitled to redeem a mortgage, according to his estate, interest or right in the mortgaged property; and "mortgagee" includes any person deriving title under the original mortgagee. R.S.O. 1960, c. 245, s. 1.

PART I

RIGHTS AND OBLIGATIONS OF MORTGAGORS AND
MORTGAGEES

2.—(1) Notwithstanding any stipulation to the contrary where a mortgagor is entitled to redeem he may require the mortgagee, instead of giving a certificate of payment or reconveying and on the terms on which he would be bound to reconvey, to assign the mortgage debt and convey the mortgaged property to any third person as the mortgagor directs, and the mortgagee is bound to assign and convey accordingly.

Obligation
on mortgagee
to transfer
instead of
reconveying

Idem

(2) The right of the mortgagor to require an assignment belongs to and is capable of being enforced by each encumbrancer or by the mortgagor, notwithstanding any intermediate encumbrance; but a requisition of an encumbrancer prevails over that of the mortgagor, and as between encumbrancers a requisition of a prior encumbrancer prevails over that of a subsequent encumbrancer.

Exception

(3) This section does not apply if the mortgagee is or has been in possession. R.S.O. 1960, c. 245, s. 2.

Right of
mortgagor to
inspect title
deeds

3. Notwithstanding any stipulation to the contrary a mortgagor, as long as his right to redeem subsists, is entitled, at reasonable times, on his request, and at his own cost and on payment of the mortgagee's costs and expenses in that behalf, to inspect and make copies or abstracts of or extracts from the documents of title relating to the mortgaged property in the custody or power of the mortgagee. R.S.O. 1960, c. 245, s. 3.

Right of
mortgagor
to copy
of mortgage

4.—(1) Notwithstanding any stipulation to the contrary, within thirty days after receipt by the mortgagee of a mortgage executed by the mortgagor, the mortgagee or his solicitor or representative shall deliver or mail or cause to be delivered or mailed a true copy of the mortgage to the mortgagor or his solicitor or representative.

Offence

(2) If the mortgagee or his solicitor or representative fails to deliver or mail or cause to be delivered or mailed a true copy of the mortgage to the mortgagor or his solicitor or representative within thirty days after receipt by the mortgagee of the mortgage executed by the mortgagor as required by subsection 1, the mortgagor may, within ten days after the period of thirty days has elapsed, demand from the mortgagee a true copy of the mortgage, and, if the mortgagee fails to comply with the demand within ten days after receipt of the demand by him, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. 1960-61, c. 58, s. 1.

Action for
possession
of land by
mortgagor

5. A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land, as to which no notice of his intention to take possession or to enter into receipt of the rents and profits thereof has been given by the mortgagee, may sue for such possession, or sue or distrain for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person, and in that case he may sue or distrain jointly with such other person. R.S.O. 1960, c. 245, s. 4.

6.—(1) All money payable to a mortgagor on an insurance of the mortgaged property, including effects, whether affixed to the freehold or not, being or forming part thereof, shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received.

Application
of insurance
money

(2) Without prejudice to any obligation to the contrary imposed by law or by special contract, a mortgagee may require that all money received on an insurance of the mortgaged property be applied in or towards the discharge of the money due under his mortgage. R.S.O. 1960, c. 245, s. 5.

Idem

7. There shall, in the several cases mentioned in this section, be deemed to be included, and there shall in those several cases be implied, covenants to the effect stated in this section, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common, that is to say,

Covenants to
be implied:

- (a) in a conveyance by way of mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely,
 - (i) for payment of the mortgage money and interest, and observance in other respects of the proviso in the mortgage,
 - (ii) for good title,
 - (iii) for right to convey,
 - (iv) that, on default, the mortgagee shall have quiet possession of the land, free from all encumbrances,
 - (v) that the mortgagor will execute such further assurances of the said lands as may be requisite, and
 - (vi) that the mortgagor has done no act to encumber the land mortgaged,

on mortgage
by beneficial
owner

according to the forms of covenants for such purposes set forth in Schedule B to *The Short Forms of Mortgages Act*, subject to the provisions of that Act;

R.S.O. 1970,
c. 437

- (b) in a conveyance by way of mortgage of leasehold property, the following further covenants by the person who conveys and is expressed to convey, as beneficial owner, namely,
 - (i) that the lease or grant creating the term or estate for which the land is held is, at the time of conveyance, a good, valid and effectual lease or grant of the land conveyed, and is in full force,

on mortgage
of leaseholds,
by beneficial
owner

unforfeited, and unsurrendered, and in no wise become void or voidable, and that all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed and performed, have been paid, observed and performed up to the time of conveyance, and

- (ii) that the person so conveying, or the persons deriving title under him, will at all times, as long as any money remains on the security of the conveyance, pay, observe and perform, or cause to be paid, observed and performed, all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed and performed, and will keep the person to whom the conveyance is made and those deriving title under him indemnified against all actions, proceedings, costs, charges, damages, claims and demands, if any, to be incurred or sustained by him or them by reason of the non-payment of such rent, or the non-observance or non-performance of such covenants, conditions and agreements, or any of them. R.S.O. 1960, c. 245, s. 6.

Implied covenants in mortgages are joint and several

8. In a mortgage, where more persons than one are expressed to convey as mortgagors, or to join as covenantors, the implied covenants on their part shall be deemed to be joint and several covenants by them, and where there are more mortgagees than one the implied covenant with them shall be deemed to be a covenant with them jointly unless the amount is expressed to be secured to them in shares or distinct sums, in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him. R.S.O. 1960, c. 245, s. 7.

Release of equity of redemption without merger of debt

9.—(1) A mortgagee of freehold or leasehold property may take and receive from the mortgagor a release of the equity of redemption in the property, or may purchase the same under any judgment or decree or execution without thereby merging the mortgage debt as against any subsequent mortgagee or person having a charge on the same property.

Position of subsequent mortgagee

(2) Where a prior mortgagee so acquires the equity of redemption of the mortgagor no subsequent mortgagee is entitled to foreclose or sell the property without redeeming or selling, subject to the rights of such prior mortgagee, in the same manner as if such prior mortgagee had not acquired the equity of redemption.

(3) This section does not affect any priority or claim any mortgagee may have under the registry laws. R.S.O. 1960, c. 245, s. 8. Priority under registry

10. Where a person entitled to any freehold land by way of mortgage has died, and his executor or administrator has become entitled to the money secured by the mortgage, or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the mortgagee's estate in the land, and such executor or administrator has the same power as to any part of the land on payment of some part of the mortgage debt, or on any arrangement for exonerating the whole or any part of the mortgaged land, without payment of money, and such conveyance, assignment, release or discharge is as effectual as if the same had been made by the persons having the mortgagee's estate. R.S.O. 1960, c. 245, s. 9. Powers of executors of mortgagee

11.—(1) In this section, "court" means the Supreme Court or the county or district court of the county or district in which the land or any part thereof is situate. Interpretation

(2) The payment in good faith of any money to and the receipt thereof by the survivor or survivors of two or more mortgagees, or the executors or administrators of such survivor, or their or his assigns, effectually discharges the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the security. Effect of receipts of surviving mortgagee, etc.

(3) When a mortgagor or any person entitled to pay off a mortgage desires to do so and the mortgagee, or one of several mortgagees, cannot be found or when a sole mortgagee or the last surviving mortgagee is dead and no probate of his will has been granted or letters of administration issued, or where from any other cause a proper discharge cannot be obtained, or cannot be obtained without undue delay, the court may permit payment into court of the amount due upon the mortgage and may make an order discharging the mortgage. Where mortgagee cannot be found

(4) The money paid into court shall be paid out of court with any accrued interest to the mortgagee or mortgagees or to the executor or administrator of the mortgagee or as the court by order for payment into court or any subsequent order may direct. Payment out of money paid into court

(5) The court may require notice to be given by advertisement or as may be considered proper to the mortgagee or those claiming under him either before or after making the order. Notice to mortgagee

When
amount
offered
questioned

(6) When the amount admitted to be due upon the mortgage appears to be open to question the court may as a condition of making the order require payment into court of a sum in excess of the amount admitted to be due and in such case the additional sum is subject to the further order of the court.

Provision for
subsequent
interest and
costs

(7) The court may require payment into court of an additional sum to answer any claim by the mortgagee for subsequent interest and costs.

Death of
mortgagee,
order for
discharge

(8) When a mortgagee has died and all money due upon the mortgage was paid to him in his lifetime or has been paid to a person entitled to receive the same after his death or where in any other case it appears that all money due upon the mortgage has been paid and for any reason a discharge or reconveyance cannot be obtained without undue delay and expense the court may make an order discharging the mortgage.

Registration
of order
discharging

R.S.O. 1970,
c. 409

(9) Upon the registration of an order discharging a mortgage it has the same effect as the registration of a certificate of discharge signed by the mortgagee would have under *The Registry Act*.

Appeal

(10) An appeal lies to the Court of Appeal from any order made under this section. R.S.O. 1960, c. 245, s. 10.

Defence
of purchase
for value
without
notice

12. The purchaser in good faith of a mortgage may, to the extent of the mortgage, and except as against the mortgagor, set up the defence of purchase for value without notice in the same manner as a purchaser of the mortgaged property might do. R.S.O. 1960, c. 245, s. 11.

Exemption
from
liability to
distress

13. Notwithstanding any stipulation in the mortgage to the contrary, the right of a mortgagee to distrain for interest in arrear upon a mortgage is limited to the goods and chattels of the mortgagor, and to such of them as are not exempt from seizure under execution. R.S.O. 1960, c. 245, s. 12.

Limitation
upon right
to distrain

14.—(1) As against creditors of a mortgagor, or person in possession of mortgaged premises under a mortgagor, the right, if any, to distrain upon the mortgaged premises for arrears of interest or for rent, in the nature of or in lieu of interest under the provisions of any mortgage is restricted to one year's arrears of such interest or rent.

When
restriction
to apply

(2) This restriction does not apply unless some one of such creditors is an execution creditor, or unless there is an assignee for the general benefit of such creditors appointed before lawful sale of the goods and chattels distrained, nor unless the officer executing such writ of execution or such assignee, by notice in writing to be given to the person distraining or his attorney,

bailiff, or agent before such lawful sale, claims the benefit of this restriction.

(3) When such notice is given, the distrainor shall relinquish to the officer or assignee the goods and chattels so distrained, upon receiving one year's arrears of such interest or rent and his reasonable costs of distress, or if such arrears and costs are not paid or tendered he shall sell only so much of the goods and chattels distrained as is necessary to satisfy one year's arrears of such interest or rent and the reasonable costs of distress and sale, and shall thereupon relinquish any residue of them, and pay any residue of money, proceeds thereof so distrained, to such officer or assignee.

Duty of
distrainor
when
restriction
applies

(4) An officer executing an execution, or an assignee who pays any money to relieve goods and chattels from distress under this section, is entitled to reimburse himself therefor out of the proceeds of the sale thereof. R.S.O. 1960, c. 245, s. 13.

Reimburse-
ment of
officer or
assignee

15. Goods and chattels distrained by a mortgagee shall not be sold except after such public notice as is required to be given by a landlord who sells goods and chattels distrained for rent. R.S.O. 1960, c. 245, s. 14.

Notice of
sale

16.—(1) Notwithstanding any agreement to the contrary, where default has been made in the payment of any principal money secured by a mortgage of freehold or leasehold property, the mortgagor or person entitled to make such payment may at any time, upon payment of three months interest on the principal money so in arrear, pay the same, or he may give the mortgagee at least three months notice, in writing, of his intention to make such payment at a time named in the notice, and in the event of his making such payment on the day so named he is entitled to make the same without any further payment of interest except to the date of payment.

Payment of
principal
upon default

(2) If the mortgagor or person entitled to make such payment fails to make the same at the time mentioned in the notice, he is thereafter entitled to make such payment only on paying the principal money so in arrear and interest thereon to the date of payment together with three months interest in advance.

Exception

(3) Nothing in this section affects or limits the right of the mortgagee to recover by action or otherwise the principal money so in arrear after default has been made. R.S.O. 1960, c. 245, s. 15.

Saving

17.—(1) Where any principal money or interest secured by a mortgage of freehold or leasehold property is not, under the terms of the mortgage, payable until a time more than five years after the date of the mortgage, then, if at any time after the expiration

Right to
redeem
after 5 years

of such five years any person liable to pay or entitled to redeem tenders or pays to the person entitled to receive the money the amount due for principal money and interest to the time of such tender or payment, together with three months further interest in lieu of notice, no further interest is chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage.

Exceptions

(2) This section does not apply to any mortgage given by a joint stock company or other corporation nor to any debenture issued by any such company or corporation for the payment of which security has been given on freehold or leasehold property. R.S.O. 1960, c. 245, s. 16.

Paying off mortgage when provision made for a lower rate for punctual payment

18.—(1) Where provision is made in a mortgage that if interest is paid promptly it will be accepted at a lower rate than that provided in the mortgage, and interest at the lower rate has been paid according to such condition up to the time when all the principal money has become payable, any person liable to pay or entitled to redeem is entitled to pay the principal money and interest on the same at the lower rate at any time after the time for payment of the principal money on giving three months notice of his intention to make such payment or on paying three months interest at such lower rate in lieu of notice.

Mortgagor failing to pay according to notice

(2) If the mortgagor or person entitled to make such payment fails to make the same at the time mentioned in the notice, he is thereafter entitled to make such payment only on paying the principal and interest at the lower rate to the date of payment, together with three months interest in advance. R.S.O. 1960, c. 245, s. 17.

Interpretation

19.—(1) In this section, “original mortgagor” means any person who by virtue of privity of contract with the mortgagee is personally liable to the mortgagee to pay the whole or any part of the moneys secured by the mortgage.

Right of mortgagee to recover personal judgment

(2) Notwithstanding any stipulation to the contrary in a mortgage, where a mortgagor has conveyed and transferred the equity of redemption to a grantee under such circumstances that the grantee is by express covenant or otherwise obligated to indemnify the mortgagor with respect to the mortgage, the mortgagee has the right to recover from the grantee the amount of the mortgage debt in respect of which the grantee is obligated to indemnify the mortgagor; provided that the right of the mortgagee to recover the amount of the mortgage debt under this section from the grantee of the equity of redemption shall as against such grantee terminate on the registration of a grant or transfer of the equity of redemption by such grantee to another person unless prior to such registration an action has been commenced to enforce the right of the mortgagee.

(3) Where a mortgagee has the right to recover the whole or any part of moneys secured by a mortgage from an original mortgagor and also has a right by virtue of this section to recover from a grantee of the equity of redemption from a mortgagor, if the mortgagee recovers judgment for the amount of the mortgage debt against the original mortgagor, the mortgagee thereupon forever ceases to have a right to recover under this section from a grantee, and if the mortgagee recovers judgment under this section against a grantee he thereupon forever ceases to have a right to recover from the original mortgagor; provided that where there is more than one original mortgagor this section does not affect the right of a mortgagee after the recovery of judgment against one original mortgagor to recover judgment against the other original mortgagor or mortgagors. R.S.O. 1960, c. 245, s. 18.

Limit of
right of
action

20.—(1) In this section, “building mortgage” means any mortgage made for the purpose of financing the construction of a building.

Interpre-
tation

(2) Where, in any building mortgage made on or after the 1st day of July, 1942, it is expressly stated that it is a building mortgage made pursuant to this section, no action may be brought by the mortgagee after the expiration of one year from the date of the maturity of the mortgage whereby to recover payment from the person who executed the mortgage, of the whole or any part of the moneys therein secured, if such person has made a *bona fide* sale of the property and has conveyed and transferred the equity of redemption to a grantee under such circumstances that the grantee is by express covenant or otherwise obligated to indemnify such person with respect to the mortgage. R.S.O. 1960, c. 245, s. 19.

When no
action may
be brought

21.—(1) Notwithstanding any agreement to the contrary, where default has occurred in making any payment of principal or interest due under a mortgage or in the observance of any covenant in a mortgage and under the terms of the mortgage, by reason of such default, the whole principal and interest secured thereby has become due and payable,

Relief
before
action

- (a) at any time before sale under the mortgage; or
- (b) before the commencement of an action for the enforcement of the rights of the mortgagee or of any person claiming through or under him,

the mortgagor may perform such covenant or pay the amount due under the mortgage, exclusive of the money not payable by reason merely of lapse of time, and pay any expenses necessarily incurred by the mortgagee, and thereupon he is relieved from the consequences of such default.

Statement
of arrears,
expenses,
etc.

(2) The mortgagor may, by a notice in writing, require the mortgagee to furnish him with a statement in writing,

- (a) of the amount of the principal or interest with respect to which the mortgagor is in default; or
- (b) of the nature of the default or the non-observance of the covenant,

and of the amount of any expenses necessarily incurred by the mortgagee.

Idem

(3) The mortgagee shall answer a notice given under subsection 2 within fifteen days after he receives it, and, if without reasonable excuse he fails so to do or his answer is incomplete or incorrect, any rights that he may have to enforce the mortgage shall be suspended until he has complied with subsection 2. 1970, c. 54, s. 1, *part*.

Relief
after
action
commenced

22.—(1) Notwithstanding any agreement to the contrary, where default has occurred in making any payment of principal or interest due under a mortgage or in the observance of any covenant in a mortgage and under the terms of the mortgage, by reason of such default, the whole principal and interest secured thereby has become due and payable, in an action for enforcement of the rights of the mortgagee or of any person claiming through or under him, the mortgagor, upon payment into court of the sum of \$100 to the credit of the action as security for costs, may apply to the court and, conditional upon performance of such covenant or upon payment of the money due under the mortgage, exclusive of the money not payable by reason merely of lapse of time, and upon payment of the costs of the action, the court,

- (a) shall dismiss the action if judgment has not been recovered; or
- (b) may stay proceedings in the action, if judgment has been recovered and if no sale or recovery of possession of the land or final foreclosure of the equity of redemption has taken place.

Idem

(2) Notwithstanding clause *b* of subsection 1, where judgment has been recovered and recovery of possession of the land has taken place, the court may stay proceedings in the action upon the application of a person added as a party in the master's office, made under subsection 1 within ten days after service of notice of the judgment has been made upon him.

Subsequent
default

(3) Where proceedings have been stayed under clause *b* of subsection 1 or under subsection 2 and default again occurs under the mortgage, the court upon application may remove the stay. 1970, c. 54, s. 1, *part*.

PART II

STATUTORY POWERS

23. Where any principal money is secured by mortgage of land, the mortgagee, at any time after the expiration of three months from the time of default in the payment of any moneys due under the mortgage or after any omission to pay any premium of insurance that by the terms of the mortgage ought to be paid by the mortgagor, has the following powers to the like extent as if they had been in terms conferred by the mortgage:

Powers
incident to
mortgages
after
default

1. A power to sell, or to concur with any other person in selling, the whole or any part of the mortgaged property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to buy in at an auction and to rescind or vary contracts for sale, and to resell the land, from time to time, in like manner without being answerable for any loss occasioned thereby.

Power of
sale

2. A power to insure and to keep insured against loss or damage by fire any building or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the mortgaged property, and the premiums paid for any such insurance are a charge on the mortgaged property, in addition to the mortgage money and with the same priority and with interest at the same rate as the mortgage money. 1964, c. 65, s. 1.

Power to
insure

24. A receipt for purchase money given by the person exercising the power of sale conferred by section 23 is a sufficient discharge to the purchaser, who is not bound to see to the application of the purchase money. R.S.O. 1960, c. 245, s. 22.

Receipts for
purchase
money
sufficient
discharges

25.—(1) No sale under the power conferred by section 23 shall be made until after forty-five days notice in writing in Form 1 has been given to the persons and in the manner provided by Part III.

Notice
before sale

(2) The notice may be given at any time after fifteen days default in making any payment provided for by the mortgage. 1964, c. 64, s. 2.

Idem

26. The money arising from the sale shall be applied by the person receiving the same as follows:

Application
of purchase
money

Firstly, in payment of all the expenses incident to the sale or incurred in any attempted sale;

Secondly, in discharge of all interest and costs then due in respect of the mortgage under which the sale was made;

Thirdly, in discharge of all the principal money then due in respect of the mortgage; and

R.S.O. 1970,
c. 135

Fourthly, subject to the provisions of section 9 of *The Dower Act*, in payment of the amounts due to the subsequent encumbrancers according to their priorities,

and the residue shall be paid to the mortgagor. R.S.O. 1960, c. 245, s. 25.

Conveyance
to the
purchaser

27. The person exercising the power of sale has power to convey or assign to and vest in the purchaser the property sold for all the estate and interest therein of the mortgagor and of which he had power to dispose. R.S.O. 1960, c. 245, s. 26.

Right to title
deeds and
conveyance
of legal
estate

28. At any time after the power of sale has become exercisable, the person entitled to exercise the same is entitled to demand and recover from the mortgagor all deeds and documents in his possession or power relating to the mortgaged property, or to the title thereto, which he would have been entitled to demand and recover if the property had been conveyed, appointed, surrendered or assigned to and was then vested in him for all the estate and interest of the mortgagor and of which he had power to dispose, and where the legal estate is outstanding in a trustee the mortgagee, or any purchaser from him, is entitled to call for a conveyance of the legal estate to the same extent as the mortgagor could have called for such a conveyance if the mortgage had not been made. R.S.O. 1960, c. 245, s. 27.

Application
of Part II

29. So much of this Part as confers a power to sell does not apply in the case of a mortgage that contains a power of sale, and so much as confers a power to insure does not apply in the case of a mortgage that contains a power to insure; nor do any of the provisions of this Part apply to a mortgage that contains a declaration that this Part does not apply thereto. R.S.O. 1960, c. 245, s. 28; 1964, c. 64, s. 3.

PART III

NOTICE OF EXERCISING POWER OF SALE

Notice of
power of
sale

30.—(1) A mortgagee shall not exercise a power of sale unless a notice of exercising the power of sale in Form 1 has been given by him to the following persons, other than the persons having an interest in the mortgaged property prior to that of the mortgagee and any other persons subject to whose rights the mortgagee proposes to sell the mortgaged property:

1. Where the mortgaged property is registered under *The Land Titles Act*, to every person appearing by the register of title and by the index of executions to have an interest in the mortgaged property. R.S.O. 1970,
c. 234
2. Where *The Registry Act* applies to the mortgaged property, to every person appearing by the abstract index and by the index of writs received for execution by the sheriff of the county or district in which the mortgaged property is situate to have an interest in the mortgaged property. R.S.O. 1970,
c. 409
3. Where there is a statutory lien against the mortgaged property in favour of the Crown or any other public authority and where the mortgagee exercising the power of sale has written notice of the lien, to the Crown or other public authority claiming the lien.
4. Where the mortgagee has actual notice in writing of any other interest in the mortgaged property and where such notice has been received prior to the giving of notice exercising the power of sale, to the person having such interest. 1964, c. 64, s. 5, *part*; 1965, c. 74, s. 1.

(2) In subsection 1, the expressions "register of title" and "abstract index" include instruments received for registration before 4.30 p.m. on the day immediately prior to the day on which a notice of exercising the power of sale is given. 1964, c. 64, s. 5, *part*. Interpre-
tation

31. Where a mortgage by its terms confers a power of sale upon a certain default, notice of exercising the power of sale shall not be given until the default has continued for at least fifteen days, and the sale shall not be made for at least thirty-five days after the notice has been given. 1964, c. 64, s. 5, *part*. When notice
may be
given and
power
exercised

32.—(1) A notice of exercising a power of sale shall be given by personal service or by registered mail addressed to the person to whom it is to be given at his usual or last known place of address, or, where the last known place of address is that shown on the registered instrument under which he acquired his interest, to such address, or by leaving it at one of such places of address, or, where the mortgage provides for personal service only, by personal service, or, where the mortgage provides a specific address, to such address. Manner of
giving
notice,
general
rules

(2) Where a person to be given a notice of exercising a power of sale is an execution creditor, the notice may be given in the manner provided in subsection 1 by addressing it to the solicitor who issued the execution or, where there is no solicitor, to the execution creditor. Execution
creditors

Mechanics' lien creditors

(3) Where a person to be given a notice of exercising a power of sale is a mechanics' lien claimant, the notice may be given in the manner provided in subsection 1 by addressing it to the solicitor who filed the claim for lien, but, where there is no solicitor and no address for service is shown on the claim for lien and the mortgagee has no actual knowledge of the lien claimant's address, no notice need be given to such lien claimant.

Persons under disability

(4) Where a person to be given a notice of exercising a power of sale is under a disability, the notice shall be deemed to have been effectually given if given in accordance with subsection 1.

Deceased persons

(5) Where a person to be given a notice of exercising a power of sale has died, the notice shall be deemed to have been effectually given if given by registered mail in accordance with subsection 1, and, subject to item 4 of subsection 1 of section 30, shall be deemed to be effectual notice to all persons who have any interest in the deceased's estate. 1964, c. 64, s. 5, *part*.

When notice by mail effective

33. A notice of exercising a power of sale shall, if given by registered mail, be mailed in Ontario, and such a notice shall be deemed to have been given on the day on which it was mailed. 1964, c. 64, s. 5, *part*.

Statutory declarations conclusive
R.S.O. 1970, c. 234

34. Subject to *The Land Titles Act* and except where an order is made under section 38, a statutory declaration by the mortgagee, his solicitor or agent as to default, a statutory declaration proving service, including production of the post office receipt of registration, if any, and a statutory declaration by the mortgagee or his solicitor that the sale complies with this Part and, where applicable, with Part II, is conclusive evidence of compliance with this Part and, where applicable, with Part II, sufficient to give a good title to the purchaser. 1964, c. 64, s. 5, *part*.

Impeachment of title

35. Where a notice has been given in professed compliance with this Part and, where applicable, with Part II, the title of the purchaser is not liable to be impeached on the ground that the provisions of this Part or, where applicable, Part II respecting default and the provisions of this Part respecting notice, have not been complied with, but any person damnified thereby has his remedy against the person exercising the power of sale. 1964, c. 64, s. 5, *part*.

Abridgement of time

36. Nothing in this Part shall be deemed to abridge,

- (a) the period of default after which notice exercising a power of sale may be given where the period of default provided by the mortgage is greater than the period of default mentioned in section 31; or

- (b) the period of time after notice has been given after which the mortgaged premises may be sold where the period of time provided by the mortgage is greater than the period of time mentioned in section 31. 1964, c. 64, s. 5, *part.*

37. Notwithstanding any agreement to the contrary or any provision contained in any mortgage or any provision of this or any other Act, sections 30, 31, 32, 33, 34 and 35 apply to any power of sale in a mortgage, and sections 30, 32, 33, 34 and 35 apply to the power of sale conferred by section 23. 1964, c. 64, s. 5, *part.*

Notice
rules
paramount

38.—(1) Where a mortgage by its terms confers a power of sale upon a certain default and such default has continued for fifteen days, or where there has been at least three months default under a mortgage with respect to which a power of sale is conferred by section 23, a mortgagee may apply *ex parte* to the judge of the county or district court of the county or district in which the mortgaged property or any part thereof is situate, or to the Master of the Supreme Court, for leave to exercise power of sale without notice.

Exercise of
power of
sale without
notice

(2) Upon an application under subsection 1, the judge or master, as the case may be, shall, having regard to the circumstances, either grant leave to exercise the power of sale without notice or with such notice to such persons, in such manner and within such time as he considers proper. 1964, c. 64, s. 5, *part.*

Idem

39. This Part does not apply to a mortgage given by a corporation to secure bonds or debentures. 1964, c. 64, s. 5, *part.*

Part III
does not
apply to
bond
mortgages

PART IV

GENERAL PROVISIONS AS TO POWER OF SALE

40.—(1) Where, pursuant to any condition or proviso contained in a mortgage, there has been made or given a demand or notice either requiring payment of the money secured by the mortgage, or any part thereof, or declaring an intention to proceed under and exercise the power of sale therein contained, no further proceeding and no action either to enforce the mortgage, or with respect to any clause, covenant or provision therein contained, or to the mortgaged property or any part thereof, shall, until after the lapse of the time at or after which, according to such demand or notice, payment of the money is to be made or the power of sale is to be exercised or proceeded under, be commenced or taken until an order permitting the same has been

Restrictions
as to pro-
ceedings

obtained from a judge of the county or district court of the county or district in which the mortgaged property or any part thereof is situate, or from a judge of the Supreme Court.

Proof on
which order
may be
granted

(2) The order may be obtained *ex parte* or upon such notice as the judge may direct upon such proof as satisfies the judge that it is reasonable and equitable that the proposed action or proceeding should be permitted.

Exception

(3) This section does not apply to proceedings to stay waste or other injury to the mortgaged property. R.S.O. 1960, c. 245, s. 31.

Payment
made in
terms of
notice

41.—(1) Where such demand or notice requires payment of all money secured by or under a mortgage, the person making such demand or giving such notice is bound to accept and receive payment of the same if made as required by the terms of such demand or notice.

Payment or
tender of
costs

(2) If there is a dispute as to the costs payable by the person by or on whose behalf such payment is either made or tendered, such costs shall, on three clear days notice to such person by the person claiming the same, be taxed and ascertained by the clerk of the county or district court, or by the local master of the county or district in which the mortgaged property or any part thereof is situate.

Compliance
with demand

(3) Where the time limited by the demand or notice requiring payment expires before the taxation of the costs has been completed, the amount due apart from the costs claimed may be paid, and payment of the amount allowed for costs within ten days after the issue of a certificate of taxation shall be deemed a compliance with the demand or notice.

Costs,
taxation

(4) A mortgagee's costs of and incidental to the exercise of a power of sale, whether under this Part or otherwise, may, without an order, be taxed by one of the taxing officers of the Supreme Court at Toronto or by a local master having jurisdiction in the county or district in which the mortgaged property or any part of it is situate at the instance of any person interested.

Discretion
as to costs

(5) The costs of the taxation shall be in the discretion of the taxing officer. R.S.O. 1960, c. 245, s. 32.

FORM 1

(Sections 25 (1) and 30 (1))

NOTICE OF SALE UNDER MORTGAGE

Take notice that default has been made in payment of the moneys due under a certain mortgage dated the day of, 19..., made between (*here state parties and describe mortgaged property*) which mortgage was registered on the day of, 19..., in the registry division, etc. (*and, if the mortgage has been assigned, add: and which mortgage was assigned to the undersigned on the day of, 19...*).

And I hereby give you notice that the amount now due on the mortgage for principal money, interest (*if so, add: taxes, insurance premiums, or other matters*) and costs, respectively, are as follows:

(*Set out items claimed to be due*)

And unless the said sums are paid on or before the day of, 19... (*a day not less than forty-five days from the service of the notice where the power of sale is exercised under Part II, or a day not less than thirty-five days from the service of the notice where Part III applies*), I shall sell the property covered by the said mortgage under the provisions contained in it (*or if so: under Part II of The Mortgages Act*).

This notice is given to you as you appear to have an interest in the mortgaged property and may be entitled to redeem the same.

Dated the day of, 19...

(Signed)

Mortgagee

1964, c. 64, s. 7.

CHAPTER 280

The Mortmain and Charitable Uses Act

1.—(1) In this Act, Interpretation

- (a) “assurance” includes a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, encumbrance, devise, bequest and every other assurance by deed, will or other instrument, and “assure” and “assuror” have a corresponding meaning;
- (b) “full and valuable consideration” includes such a consideration either actually paid upon or before the making of the assurance, or reserved or made payable to the vendor or any other person by way of rent, rent charge, or other annual payment, in perpetuity, or for any term of years, or other period, with or without a right of re-entry for non-payment thereof, or partly paid and partly reserved, as aforesaid;
- (c) “land” includes tenements and hereditaments corporeal and incorporeal of whatever tenure, but not money secured on land, or other personal estate arising from or connected with land;
- (d) “Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (e) “will” includes codicil. R.S.O. 1960, c. 246, s. 1 (1); 1968-69, c. 72, s. 1.

(2) The following shall be deemed to be charitable uses within the meaning of this Act: Charitable uses

- (a) the relief of poverty;
- (b) education;
- (c) the advancement of religion; and
- (d) any purpose beneficial to the community, not falling under the foregoing heads. R.S.O. 1960, c. 246, s. 1 (2).

MORTMAIN

2.—(1) Land shall not be assured to or for the benefit of or acquired or held by or on behalf of any corporation in mortmain otherwise than under the authority of a licence or of a statute for the time being in force. Prohibition against mortmain

Forfeiture

(2) Where land is assured, acquired or held contrary to subsection 1, it shall be forfeited to the Crown upon the expiration of at least six months after notice in writing is given to the corporation of the intention of the Crown to claim the land and upon the Crown registering in the proper registry or land titles office a similar notice against the land.

Effect of registration of notice

(3) Upon the registration of such notice against the land, it shall be deemed to be a charge against the land.

Release or vacation

(4) Such a charge may be released or vacated at any time upon the registration in the proper registry or land titles office of a release or cessation, as the case may be, of the charge.

Right of disposal

(5) The corporation may dispose of the land free from and clear of any forfeiture or any liability to forfeiture under this section until the expiration of the six months period mentioned in subsection 2 and until the notice mentioned in subsection 2 is registered against the land.

Application of subss. 2-5

(6) Subsections 2 to 5 apply to land that was before the 30th day of April, 1954, assured to or for the benefit of or acquired or held by or on behalf of any corporation in mortmain otherwise than under the authority of a licence or of a statute for the time being in force, except where the Crown has entered on and held the land before that date, and to land so assured, acquired or held on or after that date. R.S.O. 1960, c. 246, s. 2.

Saving for rents and services

3. No forfeiture to the Crown under section 2 merges or extinguishes or otherwise affects any rent or service that may be due to the Crown in respect of any land. R.S.O. 1960, c. 246, s. 3.

Power to issue licences in mortmain

4.—(1) The Lieutenant Governor may in his discretion issue to any person or corporation a licence in such form as he thinks fit to assure land in mortmain in perpetuity or otherwise, and may in his discretion issue to any corporation a licence to acquire land in mortmain, and to hold such land in perpetuity or otherwise. R.S.O. 1960, c. 246, s. 4 (1).

Powers of Minister

(2) The Minister may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred on the Lieutenant Governor by subsection 1. R.S.O. 1960, c. 246, s. 4 (2); 1968-69, c. 72, s. 2 (1).

Proof to be furnished on application

(3) Upon the application for a licence issued under this Act, the applicant shall establish to the satisfaction of the Minister, or such officer as may be charged by him to report thereon, that the provisions of this Act and the regulations have been complied with, and the Minister or such officer may, for that or for any other purpose under this Act, take evidence under oath. R.S.O. 1960, c. 246, s. 4 (3); 1968-69, c. 72, s. 2 (2).

(4) There shall be paid for a licence under this Act such fee as is prescribed by the Lieutenant Governor in Council. R.S.O. 1960, c. 246, s. 4 (4). Fees

5. The Lieutenant Governor in Council may make regulations, Regulations

- (a) respecting the evidence required upon the application for a licence under this Act as to the incorporation of the corporation, its powers and objects and its existence as a valid and subsisting corporation;
- (b) respecting the appointment and continuance by the corporation of a person as its representative in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;
- (c) respecting the limitations and conditions that may be specified in licences;
- (d) respecting the form, duration and extent of licences, and the form of powers of attorney, applications, notices, statements, returns and other documents relating to applications and other proceedings under this Act;
- (e) prescribing the form of the notices mentioned in subsection 2 of section 2 and of the release and cessation mentioned in subsection 4 of section 2;
- (f) prescribing fees for licences under this Act. R.S.O. 1960, c. 246, s. 5.

CHARITABLE USES

6. Save as otherwise provided in this Act, every assurance, other than by will, of land or personal estate to be laid out in the purchase of land to or for the benefit of any charitable use is void unless made, Conditions under which assurances may be made to charitable uses

- (a) to take effect in immediate possession for such charitable use;
- (b) without any power of revocation, reservation, condition or provision for the benefit of the assurator or of any person claiming under him; and
- (c) at least six months before the death of the assurator, and if of stock in the public funds by transfer thereof in the public books kept for the transfer of stock at least six months before such death,

provided that the assurance or any instrument forming part of the same transaction may contain all or any of the following conditions, so however that they reserve the same benefits to persons claiming under the assurator as to the assurator himself, namely,

- (i) the grant or reservation of a peppercorn or other nominal rent;
- (ii) the grant or reservation of mines or minerals;
- (iii) the grant or reservation of any easement;
- (iv) covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, or as to drainage or nuisances, and covenants or provisions of the like nature for the use and enjoyment as well of the land comprised in the assurance as of any other adjacent or neighbouring land;
- (v) a right of entry on non-payment of any such rent or on breach of any such covenant or provision; or
- (vi) any stipulations of the like nature for the benefit of the assurator or of any person claiming under him,

and provided that nothing in this section applies to or affects any such assurance made for full and valuable consideration. R.S.O. 1960, c. 246, s. 6.

Necessity
for sale

7.—(1) Subject to the provisions hereinafter contained, where land is assured otherwise than by will to or for the benefit of any charitable use, the land shall, notwithstanding anything contained in the deed or other instrument of assurance, be sold within two years from the date of the assurance or within such extended period as may be determined by a judge of the Supreme Court.

Idem

(2) If the land is not sold within the two years or within such extended period, it vests forthwith in the Public Trustee and subsection 2 of section 10 applies thereto.

When
sanctioned

(3) A judge of the Supreme Court, if satisfied that the land so assured is required for actual occupation for the purposes of the charity and not as an investment, may by order sanction the retention of the land. R.S.O. 1960, c. 246, s. 7.

EXEMPTIONS

Interpre-
tation

3.—(1) In this section,

- (a) “public park” includes any park, garden, or other land dedicated or to be dedicated to the recreation of the public;
- (b) “school” means a school, or department of a school, at which education is given in literature, art, science or mathematics, or a vocational or technical school;
- (c) “schoolhouse” includes the teacher’s dwelling house, the playground, if any, and the offices and premises belonging to or required for a school;

- (d) "public museum" includes buildings used, or to be used, for the preservation of a collection of paintings or other works of art, or of objects of natural history, or of mechanical, scientific or philosophical inventions, instruments, models or designs, and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories and other offices and premises used or to be used in connection therewith.

(2) Notwithstanding anything in this Act, land or personal estate to be laid out in the purchase of land, may be assured for the following purposes: Assurances for a public park, school, or museum

- (a) for a public park;
- (b) for a public museum;
- (c) for a public library;
- (d) for a school or schoolhouse.

(3) Land assured for the purposes of a school or schoolhouse and not required for actual use and occupation for such purposes or the part thereof not so required shall be sold within two years from the date of the assurance or, in the case of a will, from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court, and the provisions of subsection 2 of section 10 and of section 12 apply. R.S.O. 1960, c. 246, s. 8. Sale of land assured for school if not required for actual use

9. Sections 2 and 6 do not apply to the following assurances: Assurances for certain purposes

- (a) an assurance of land or personal estate to be laid out in the purchase of land, to or in trust for any incorporated university, college or school in Ontario, or for the support and maintenance of the students thereat;
- (b) an assurance, otherwise than by will, to trustees on behalf of any society or body of persons, incorporated or unincorporated, associated together for religious purposes, or for the promotion of education, art, literature, science or other like purposes, of land not exceeding two acres, for the erection thereon of a building for such purposes, or any of them, or whereon a building used or intended to be used for such purposes, or any of them, has been erected. R.S.O. 1960, c. 246, s. 9.

LAND DEVISED BY WILL

10.—(1) Land may be devised by will to or for the benefit of any charitable use, but, except in the cases provided for by sections 8 and 9 and except as otherwise provided herein, shall, Power to devise land for charitable use

notwithstanding anything to the contrary in the will, be sold within two years from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court.

Where land remains unsold after expiration of two years

(2) So soon as the two years or such extended period have expired without the completion of the sale of the land, the land vests forthwith in the Public Trustee who shall cause the land to be sold with all reasonable speed and after payment of the costs and expenses incurred in or connected with such sale and proceedings shall pay the proceeds to the trustees for the charity. R.S.O. 1960, c. 246, s. 10.

Personal estate directed to be laid out in land

11. Any personal estate by will directed to be laid out in the purchase of land to or for the benefit of any charitable use, shall, except as hereinafter provided, be held to or for the benefit of the charitable use as though there had been no direction to lay it out in the purchase of land. R.S.O. 1960, c. 246, s. 11.

Power to retain land in certain cases

12. A judge of the Supreme Court, if satisfied that land devised by will to or for the benefit of any charitable use, or proposed to be purchased out of personal estate by will directed to be laid out in the purchase of land, is required for actual occupation for the purposes of the charity and not as an investment, may by order sanction the retention or acquisition, as the case may be, of such land. R.S.O. 1960, c. 246, s. 12.

GIFTS AND BEQUESTS TO CERTAIN PUBLIC BODIES

Power of certain public bodies to accept gifts to charitable uses

13.—(1) The Government of Ontario, a municipal corporation, a school board, a public library board or association, a public hospital board and trustees empowered to administer or hold property for charitable uses may have, take, hold and enjoy by gift, grant, devise, conveyance or bequest real or personal property of any nature or kind and wherever situate, whether within or outside Ontario, or the proceeds thereof upon the terms expressed in the gift, grant, devise, bequest or conveyance whereby the same is given, granted, devised, bequeathed or conveyed to such body.

Agreement with donor as to administration

(2) Any such body may, subject always to the provisions of the Act by or under the authority of which it exists and to any law regulating or limiting its power to contract debts, enter into an agreement for the holding, management, administration or disposition of any such property with the person giving, granting, conveying, devising or bequeathing the same to such public body upon such terms as may be agreed upon between the parties to any such gift, grant, devise, bequest or conveyance.

Necessity for sale within two years

(3) Land so given, granted, devised, bequeathed or conveyed and not required for actual use and occupation for the purposes of the trust upon which it was given, granted, devised, conveyed or

assured to such public body shall be sold within two years from the date of the gift, grant, devise, conveyance or assurance or, in the case of a will, from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court, and the provisions of subsection 2 of section 10 and of section 12 apply.

(4) This section applies to gifts, grants, devises, bequests and conveyances heretofore made as well as to such as may hereafter be made. R.S.O. 1960, c. 246, s. 13.

Retroactive effect of section

SUPPLEMENTAL

14.—(1) In every case of a breach or supposed breach of any trust created for charitable purposes, or whenever the direction or order of a court is deemed necessary for the administration of any trust for charitable purposes, any two or more persons may present a petition to the Supreme Court stating such complaint and praying such relief as the nature of the case may require, and the court may hear the petition in a summary way, and upon such affidavits or such other evidence as is produced upon the hearing, may determine the same, and make such order therein, and with respect to the costs of the application, as seem just, and any order so made is subject to appeal as if made in an action. R.S.O. 1960, c. 246, s. 14 (1).

Procedure in cases of breach of a charitable trust, etc., or where order necessary for administration

(2) Every such petition shall be signed by the persons preferring the same in the presence of and shall be attested by their solicitor, and shall be submitted to and may be allowed by the Minister of Justice and Attorney General, and such allowance shall be certified by him before any such petition shall be presented. R.S.O. 1960, c. 246, s. 14 (2), *amended*.

Execution of petition and certificate by Minister of Justice and Attorney General

15. Nothing in this Act applies so as to limit or restrict the right possessed by any corporation under any other Act, or affect any charter or licence in force when this Act comes into force enabling land to be assured or held in mortmain. R.S.O. 1960, c. 246, s. 15, *amended*.

Saving for existing licenses, etc.

CHAPTER 281

The Motor Vehicle Accident Claims Act

1. In this Act,

- (a) "Department" means the Department of Transport;
- (b) "driver's licence" means an operator's licence or chauffeur's licence issued under *The Highway Traffic Act*; Interpretation
R.S.O. 1970,
c. 202
- (c) "Fund" means the Motor Vehicle Accident Claims Fund;
- (d) "insured motor vehicle" means a motor vehicle,
 - (i) that is insured under a motor vehicle liability policy in accordance with *The Insurance Act*, or R.S.O. 1970,
c. 224
 - (ii) in respect of which there is on deposit with the Registrar money, securities or a bond in an amount equal to the minimum limit of liability prescribed under section 218 of *The Insurance Act*, or
 - (iii) in respect of which the owner is exempt from the payment of registration fees under the regulations made under *The Highway Traffic Act*, or
 - (iv) that is registered under *The Highway Traffic Act* in the name of a municipality;
- (e) "licence" means an operator's licence or chauffeur's licence issued under *The Highway Traffic Act*;
- (f) "Minister" means the Minister of Transport;
- (g) "permit" means an owner's permit issued under *The Highway Traffic Act*;
- (h) "Registrar" means the Registrar of Motor Vehicles;
- (i) "uninsured motor vehicle" means a motor vehicle that is not an insured motor vehicle. 1961-62, c. 84, s. 1; 1964, c. 66, s. 1; 1970, c. 113, s. 1.

2.—(1) There shall be a fund to be known as the Motor Vehicle Accident Claims Fund into which shall be paid the fees paid under this section. 1961-62, c. 84, s. 2 (1), *amended*. Fund established

(2) Unless the owner of a motor vehicle,

- (a) satisfies the Registrar that the motor vehicle is insured under a motor vehicle liability policy in a form prescribed by *The Insurance Act* and approved thereunder by the Superintendent of Insurance for not less than the amounts prescribed under section 218 of *The Insurance Act*; or

Uninsured
motor
vehicle fee

R.S.O. 1970,
c. 224

(b) has on deposit with the Registrar money, securities or a bond in an amount equal to the minimum limit of liability provided under section 218 of *The Insurance Act*; or

R.S.O. 1970,
c. 202

(c) is a government or other body or person exempt from paying registration fees under the regulations made under *The Highway Traffic Act* or a municipality,

upon the issuance of a permit or transfer of a permit for the current registration year for the motor vehicle, there shall be paid to the Fund by the person to whom the permit or transfer is issued such fee, to be known as the uninsured motor vehicle fee, as may be prescribed by the Lieutenant Governor in Council. 1970, c. 113, s. 2 (1).

Offence
for false
statement

(3) Every person who knowingly makes a false statement in respect of any matter upon the issuance or transfer of a permit under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500, and in addition his licence or permit may be suspended for a period of not more than one year. 1961-62, c. 84, s. 2 (3); 1964, c. 66, s. 2.

Fee on
issue or
renewal of
licence

(4) Upon the issue or renewal of a chauffeur's licence or operator's licence under *The Highway Traffic Act*, there shall be paid to the Fund by the person to whom the licence or renewal is issued such fee as may be prescribed by the Lieutenant Governor in Council. 1961-62, c. 84, s. 2 (4).

Uninsured
motor
vehicle fee
payable on
cancellation
of
insurance,
etc.

(5) When the owner of a motor vehicle,

(a) has complied with clause *a* of subsection 2 and the policy of insurance lapses or is cancelled; or

(b) has on deposit with the Registrar securities or a bond as required under clause *b* of subsection 2 and the securities or bond, as the case may be, are cancelled,

the owner shall pay forthwith the uninsured motor vehicle fee. 1970, c. 113, s. 2 (2).

Fund may be
subsidized

(6) The Lieutenant Governor in Council, having regard to the condition of the Fund and the amount paid out of the Fund during any period, may direct payment out of the Consolidated Revenue Fund of such an amount as may be considered necessary or advisable to subsidize the Fund.

Interest
credited to
Fund

(7) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at a rate to be determined by the Lieutenant Governor in Council, and such interest shall be made up at the close of each fiscal year upon the balance in the Fund at the end of the previous calendar year.

Administra-
tion
expenses

(8) The Lieutenant Governor in Council in each year shall authorize the payment out of the Fund to the Consolidated

Revenue Fund of an amount for the payment of expenses in connection with the administration of the Fund. 1961-62, c. 84, s. 2 (6-8).

3.—(1) Subject to subsection 4, the owner of a motor vehicle who operates or permits the operation of the motor vehicle on a highway shall, upon the request of a constable or an officer appointed for carrying out the provisions of *The Highway Traffic Act*, produce evidence that,

Production of evidence of insurance or payment of fee

R.S.O. 1970, c. 202

- (a) the vehicle is an insured motor vehicle; or
- (b) the uninsured motor vehicle fee has been paid in respect of the motor vehicle.

(2) The Registrar shall issue to the owner of an uninsured motor vehicle a document that may be produced as evidence under subsection 1 that the uninsured motor vehicle fee has been paid in respect of the motor vehicle. 1961-62, c. 84, s. 3 (1, 2).

Document evidencing payment of uninsured motor vehicle fee

(3) Every owner of a motor vehicle who fails to produce evidence under subsection 1 when requested to do so or within a reasonable time of such request is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.

Offence for failure to produce evidence

(4) Every owner of a motor vehicle who produces false evidence when he is required to produce evidence under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500, and in addition his licence may be suspended for a period of not more than one year. 1970, c. 113, s. 3.

Offence for producing false evidence

(5) Where the owner of a motor vehicle is convicted of an offence under subsection 3 or 4 and he has not paid the uninsured motor vehicle fee for the current year in respect of such motor vehicle, he may be required to pay such fee unless he produces evidence that the motor vehicle was insured at the time the offence was committed.

Payment of uninsured motor vehicle fee

(6) Subsections 1, 3, 4 and 5 do not apply to the owner of a motor vehicle that is registered in a country, state or province other than the Province of Ontario. 1964, c. 66, s. 3.

Application of subss. 1, 3-5

4. The Registrar is deemed to be an agent of the owner and of the operator of every uninsured motor vehicle for service of notice or process in an action in Ontario arising out of the use or operation in Ontario of the uninsured motor vehicle, and, where such an action is commenced,

Registrar agent for owner and operator of uninsured motor vehicle for service of process

- (a) a notice or process shall be served on the Registrar by leaving a copy thereof with or at the office of the Registrar; and

- (b) a copy of the notice or process shall be sent forthwith by registered mail to the defendant at his last address as recorded with the Department. 1961-62, c. 84, s. 4 (1); 1965, c. 75, s. 1.

Application
for payment
out of Fund
where person
has cause
of action

5.—(1) Where the death of or personal injury to or loss of or damage to property of any person is occasioned in Ontario by an uninsured motor vehicle, any person who would have a cause of action against the owner or driver of such uninsured motor vehicle in respect of such death, personal injury, loss or property damage, except a person entitled to make an application under subsection 1 of section 6, may make application, in a form prescribed by the Minister, for payment out of the Fund of the damages in respect of such death, personal injury, loss or property damage, provided that no amount of less than \$50 is payable in respect of such loss or property damage.

Notice to
owner and
driver

(2) Upon receipt of an application under subsection 1, the Minister shall, by registered mail, forward a notice of the application for payment out of the Fund to the owner and the driver of the uninsured motor vehicle against whom liability for the damages occasioned by the operation of the uninsured motor vehicle is alleged, to their last addresses as recorded with the Department.

Payment out
of Fund
authorized

(3) The Minister may, in respect of an application made under subsection 1, make payment out of the Fund, subject to section 22, of an amount that he considers proper in all the circumstances if,

- (a) the applicant executes a release under seal of all claims arising out of the motor vehicle accident that occasioned the damages to be paid out of the Fund; and
- (b) subject to clause c, the owner and driver of the uninsured motor vehicle, against whom liability for the damages occasioned by the operation of the motor vehicle is alleged, execute a consent to the payment of the sum for damages out of the Fund and also execute under seal an undertaking to repay to the Fund the amount to be paid from the Fund; or
- (c) the person to whom a notice is sent in accordance with subsection 2 does not reply within thirty days of the date upon which the notice was sent either,
 - (i) by mail, or
 - (ii) by attending in person at the place named in the notice,

and disputes his liability to the person making application under subsection 1. 1961-62, c. 84, s. 5 (1-3).

(4) The release executed under clause *a* of subsection 3 does not affect the rights of recovery of an insured against any person to which an insurer becomes subrogated under section 211 of *The Insurance Act*. 1965, c. 75, s. 2.

Rights of insured to which insurer subrogated
R.S.O. 1970, c. 224

(5) Where an amount is paid out of the Fund under subsection 3, the Minister is subrogated to the rights of the person to whom such amount is paid and the Minister may maintain an action in his name or in the name of such person against any other person or persons responsible for the use or operation of the uninsured motor vehicle. 1961-62, c. 84, s. 5 (4).

Minister subrogated to rights of applicant

(6) Where payment is made under subsection 3, the driver's licence of the person to whom the notice was forwarded under subsection 2 shall be forthwith suspended by the Registrar and shall not be reinstated until such person has,

Suspension of licence

- (a) repaid in full to the Fund the amount paid out; or
- (b) commenced instalment repayments in accordance with an undertaking referred to in clause *b* of subsection 3 or the regulations under section 10. 1970, c. 113, s. 4 (1).

(7) Where a person who has commenced repayment of the amount paid out of the Fund on the undertaking referred to in clause *b* of subsection 3 or by the payment of instalments in accordance with the regulations under section 10 is in default in any payment for a period of ten days, the Registrar shall forthwith suspend the driver's licence of such person. 1970, c. 113, s. 4 (2).

Suspension on default of payment

6.—(1) Subject to section 7, where a person recovers in any court in Ontario a judgment for damages on account of injury to or the death of any person or loss of or damage to property occasioned in Ontario by a motor vehicle owned or operated by the judgment debtor within Ontario, upon the determination of all proceedings, including appeals, he may make application, in the form prescribed by the Lieutenant Governor in Council, for and the Minister shall pay the amount of the judgment or of the unsatisfied portion thereof out of the Fund, provided that, in respect of a judgment for loss of or damage to property, no amount of less than \$50 is payable out of the Fund.

Application for payment of judgment

(2) Where an application is made to the Minister under subsection 1, the Minister may at any time within thirty days of the receipt of the application or within such further time as may be allowed upon application to a judge of the Supreme Court give written notice to the applicant of any objection to payment of the judgment or part of the judgment, and, where the Minister gives the notice, the applicant may apply by way of originating notice to a judge of the Supreme Court for a finding or determination in respect of any matter in connection with the application for payment out of the Fund.

Where Minister objects to payment

Action
against all
persons
reasonably
liable to
be sued

(3) The Minister shall not pay out of the Fund any amount in respect of a judgment unless the judgment was given in an action brought against all persons against whom the applicant might reasonably be considered as having a cause of action in respect of the damages in question and prosecuted against every such person to judgment or dismissal. 1961-62, c. 84, s. 6.

Application
of sec. 6

7.—(1) Section 6 does not apply in the case of a judgment that has been signed in an action in which,

- (a) the defendant did not enter an appearance; or
- (b) the defendant did not file a statement of defence; or
- (c) the defendant did not appear in person or by counsel at the trial; or
- (d) the defendant did not appear in person at an examination for discovery; or
- (e) judgment was signed upon the consent or with the agreement of the defendant,

unless the Minister has been given notice of such failure, consent or agreement and has been afforded an opportunity to take such action as he may consider advisable under subsection 2. 1961-62, c. 84, s. 7 (1); 1964, c. 66, s. 5.

Rights of
Minister

(2) Where the Minister receives notice under subsection 1, he may, if he considers it advisable, enter an appearance within thirty days, file a defence, make payment into court, appear by counsel at the trial or take such other action as he may consider appropriate on behalf and in the name of the defendant, and may thereupon, on behalf and in the name of the defendant, conduct his defence, and may, where he considers it advisable to do so, consent to judgment in such amount as he may consider proper in all the circumstances, and all acts done in accordance therewith shall be deemed to be the acts of such defendant.

Reopening
pleadings

(3) Where pleadings have been noted closed, the Minister may, upon giving notice to the registrar, local registrar or clerk of the court that he intends to defend the action on behalf and in the name of the defendant, reopen the pleadings upon praecipe. 1961-62, c. 84, s. 7 (2, 3).

Infant
defendant

(4) Where the defendant is an infant, the Minister may exercise the rights and take the action referred to in subsection 2 in the name of the infant without the appointment of a guardian *ad litem* and may assert a counterclaim on behalf of the infant without a next friend. 1968, c. 73, s. 1.

Deceased
defendant

(5) Where a deceased person, if living, would be the defendant or the defendant in the action dies and the personal representative, if any, of the deceased person does not defend the action and no administrator *ad litem* is appointed, the Minister may exercise

the rights and take the action referred to in subsection 2 in the name of the deceased and may assert a counterclaim on behalf of the estate of the deceased. 1968-69, c. 73, s. 1.

8.—(1) The Minister shall not pay out of the Fund any sum under section 6 until the judgment creditor assigns the judgment to him. Assignment of judgment to Minister

(2) Upon lodging a copy of the assignment of judgment, certified by the Registrar of Motor Vehicles to be a true copy, with the registrar, local registrar or clerk, as the case may be, of the court in which the judgment was obtained, the Minister shall, to the extent of the amount of the assignment, be deemed to be the judgment creditor. Lodging assignment with court

(3) Where execution is issued in the name of the judgment creditor and a copy of the assignment of judgment, certified as prescribed in subsection 2, is lodged with the sheriff having the writ of execution, the provisions of subsection 2 apply *mutatis mutandis*. 1961-62, c. 84, s. 8. Lodging with sheriff

9. Where the Minister pays out of the Fund any amount in satisfaction of a judgment, the driver's licence of the judgment debtor on whose behalf such payment is made shall be forthwith suspended by the Registrar and shall remain suspended until he has, Suspension of licence

- (a) repaid in full to the Fund the amount paid out; or
- (b) commenced instalment repayments in accordance with section 10 and the regulations made thereunder. 1970, c. 113, s. 5.

10.—(1) The Lieutenant Governor in Council may make regulations providing for the restoration of the drivers' licences and owners' permits of persons indebted to the Fund who are making repayment to the Fund in instalments. Restoration of licence on instalment payments

(2) The regulations shall prescribe the classes of cases to which they apply, and shall provide for the manner of determining the amount of the instalment payments, the time and place of payment and the terms and conditions, including proof of financial responsibility, of the restoration of the licences and permits. Instalment payments and conditions of restoration of licence

(3) When a person is in default of any such payment for a period of ten days, the Registrar shall forthwith suspend the driver's licence and owner's permit or permits of such person. 1961-62, c. 84, s. 10. Further suspension

11. Where the death of or personal injury to any person is occasioned in Ontario by a motor vehicle but the identity of the motor vehicle and of the driver and owner thereof cannot be Where identity of vehicle cannot be established

established, any person who would have a cause of action against the owner or driver in respect of such death or personal injury may bring an action against the Registrar, either alone or as a co-defendant with others alleged to be responsible for the death or personal injury. 1961-62, c. 84, s. 11.

Idem

12. Where an action has been commenced in respect of the death of or injury to any person occasioned in Ontario by a motor vehicle and it is alleged that the death or injury was caused or contributed to by another motor vehicle, the identity of which and the owner and driver thereof cannot be established, the Registrar may be added as a defendant on the application of any party and shall be added as a defendant on his own application. 1961-62, c. 84, s. 12.

Non-jury action

13. When the Registrar is a party to an action, the action shall be tried by a judge without a jury. 1961-62, c. 84, s. 13.

Where owner known but identity of driver cannot be established

14. When the death of or personal injury to any person is occasioned in Ontario by a motor vehicle at a time when the motor vehicle was without the owner's consent in the possession of some person other than the owner or his chauffeur and the identity of the person in possession of the motor vehicle cannot be established, any person who would have a cause of action against the person in possession of the motor vehicle in respect of such death or injury may bring an action against the Registrar. 1961-62, c. 84, s. 14.

General denial

15. In an action against the Registrar, the Registrar may deny generally the allegations in respect of the unidentified motor vehicle and unidentified owner and driver thereof and shall not be required to set forth the facts upon which he relies. 1961-62, c. 84, s. 15.

All reasonable efforts to ascertain identity condition to granting judgment

16. In an action against the Registrar, a judgment against the Registrar shall not be granted unless the court in which the action is brought is satisfied that all reasonable efforts have been made by the parties, other than the Registrar, to ascertain the identity of the motor vehicle and of the owner and driver thereof, and that,

- (a) in the case of actions under section 11, the identity of the motor vehicle and of the owner and driver thereof cannot be established; or
- (b) in the case of actions under section 14, the identity of the driver of the motor vehicle that caused the death or injury cannot be established. 1964, c. 66, s. 6.

Time limit for actions against Registrar
R.S.O. 1970, c. 202

17. All actions against the Registrar may be commenced only within the times limited for actions under section 146 of *The Highway Traffic Act*. 1961-62, c. 84, s. 17.

18. Where judgment is obtained against the Registrar, upon the determination of all proceedings, including appeals, the Minister, subject to subsection 5 of section 22, shall pay out of the Fund to the plaintiff in the action the amount of the judgment. 1961-62, c. 84, s. 18.

Payment of judgment against Registrar

19.—(1) Where judgment has been obtained against the Registrar, the Registrar may at any time thereafter, by originating notice, apply,

Order of judge as to owner or driver

- (a) where judgment has been obtained in the Supreme Court, to a judge or local judge thereof;
- (b) where judgment has been obtained in a county or district court, to a judge thereof; and
- (c) where judgment has been obtained in a small claims court of a county or district, to a judge of the county or district court of the county or district,

for an order declaring that any person was, at the time of the accident, the owner or driver of the motor vehicle that occasioned the death or injury in respect of which the judgment was obtained.

(2) Upon the making of an order declaring that any person was the owner or driver of a motor vehicle,

Owner or driver defendant in action

- (a) such person shall for the purpose of this Act be deemed to be the defendant in the action in which judgment was given against the Registrar, and the judgment against the Registrar shall be deemed to be a judgment against such person; and
- (b) the Minister shall be deemed to have a judgment against such person for the amount of all moneys paid out of the Fund in respect of the judgment and accordingly has all the rights of a judgment creditor, including the right to recover any moneys that would have been payable in respect of the death or injury under any policy of insurance that was in force at the time of the accident. 1961-62, c. 84, s. 19.

20. In an action brought against the Registrar, the Registrar is not personally liable to satisfy a judgment obtained in the action. 1961-62, c. 84, s. 20.

Registrar not personally liable

21. No payment shall be made out of the Fund in respect of a claim or judgment for damages or in respect of a judgment against the Registrar of an amount paid or payable by an insurer by reason of the existence of a policy of insurance within the meaning of *The Insurance Act*, other than a policy of life insurance, and no amount sought to be paid out of the Fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason

Payments in relation to amounts payable by insurer, etc., prohibited R.S.O. 1970, c. 224

R.S.O. 1970,
c. 224

of the existence of a policy of insurance within the meaning of *The Insurance Act*, other than a policy of life insurance, and no amount so sought shall be sought for payment to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of insurance within the meaning of *The Insurance Act*, other than a policy of life insurance. 1961-62, c. 84, s. 21.

Limits
payable
from Fund

22.—(1) In respect of any application under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and subject to subsection 5, the Minister shall not pay out of the Fund more than the total amount of \$50,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident.

Idem

(2) In respect of applications under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, and subject to subsection 5, the Minister shall not pay out of the Fund more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons, death of one or more persons, loss of property and damage to property arising out of any one accident, and, where in any one accident damages result from bodily injury or death and loss of or damage to property, the claims arising out of such loss of or damage to property have priority over claims arising out of such bodily injury or death to the extent of \$5,000, and in any event the Minister shall not pay out of the Fund more than a total amount of \$5,000 in respect of all claims arising out of loss of or damage to property in any one accident. 1968-69, c. 73, s. 2 (1).

Idem

(3) In respect of applications under section 5 or 6 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1958, and before the 1st day of October, 1962, the Minister shall not pay out of the Fund,

- (a) more than \$10,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to

or the death of two or more persons in any one accident;
and

- (b) more than \$2,000, exclusive of costs, for loss of or damage to property resulting from any one accident.

(4) In respect of applications under section 5 or 6 for payment ^{Idem} of damages arising out of motor vehicle accidents occurring in Ontario after the 1st day of July, 1947, and before the 1st day of January, 1958, the Minister shall not pay out of the Fund,

- (a) more than \$5,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$10,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; and
- (b) more than \$1,000, exclusive of costs, for loss of or damage to property resulting from any one accident. 1961-62, c. 84, s. 2 (2, 3).

(5) Subject to subsection 6, the Minister shall not pay out of the Fund in respect of judgments against the Registrar for damages,

- (a) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, more than \$50,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (b) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons arising out of any one accident; or
- (c) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1958, and before the 1st day of October, 1962, more than \$10,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; or
- (d) arising out of motor vehicle accidents occurring in Ontario after the 1st day of July, 1947, and before the 1st day of January, 1958, more than \$5,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured

or killed, not more than \$10,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident. 1961-62, c. 84, s. 22 (4); 1968-69, c. 73, s. 2 (2).

Partial
discharge
of judgment
debt

(6) Where any amount is recovered from any other source in partial discharge of the judgment debt, the maximum amount prescribed in this section shall be reduced by the amount so paid, and any amount paid out of the Fund in excess of the amount authorized by this section may be recovered by action brought by the Minister. 1961-62, c. 84, s. 22 (5).

Interest

(7) The Minister shall not pay out of the Fund any amount for interest on a judgment or interest on costs. 1964, c. 66, s. 7.

Interpre-
tation

23.—(1) In this section, “residence” shall be determined as of the date of the motor vehicle accident as a result of which the damages are claimed.

Payments
to non-
residents

(2) The Minister shall not pay out of the Fund any amount in favour of a person who ordinarily resides outside of Ontario unless such person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Act is afforded to residents of Ontario, provided that no payment shall include an amount that would not be payable by the law of the jurisdiction in which such person resides. 1961-62, c. 84, s. 23.

Costs

24.—(1) The Minister shall pay out of the Fund costs of an action but not more than the actual disbursements and fees as awarded in the judgment as between the parties to the action.

Idem

(2) Where, by reason of an action having been maintained in part by an insurer, an application under this section is for payment out of the Fund of only part of the amount of the judgment obtained in the action, the Minister shall not pay out of the Fund more than that part of the costs of the action as awarded in the judgment as between parties to the action that bears the same proportion to the whole of such costs as the total amount of the judgment, less the amount of the insurer's interest in the judgment, bears to the total amount of the judgment.

Solicitor's
fee

(3) Where a solicitor has completed the application referred to in subsection 1 of section 6 and the assignment of judgment and has issued execution and filed it with the sheriff, he is entitled to a fee of \$30 out of the Fund, and such fee includes disbursements.

Direction
of Minister
for payment
of solicitor's
fee

(4) If the Minister is satisfied that it is not feasible to issue and file execution as required under subsection 3, he may waive such requirements, and in such case the solicitor is entitled to the fee under subsection 3. 1961-62, c. 84, s. 24.

25.—(1) No money shall be paid out of the Fund under or in respect of an order or judgment until the bill or bills of costs of the barrister or solicitor acting or who acted for the applicant in the application or action that resulted in the order or judgment, as taxed on a solicitor and client basis, is filed with the Minister. Bill of costs to be taxed and filed

(2) No amount shall be charged or received either directly or indirectly for legal services in connection with any application or action referred to in subsection 1, other than the amounts as taxed on a solicitor and client basis in the bill or bills of costs. Fees limited to taxed costs

(3) No order is required to tax such a bill. 1961-62, c. 84, s. 25. No order required

26. The practice and procedure of the Supreme Court or the court in which the application or action is brought, including the right of appeal and the practice and procedure relating to appeals, apply to an application or action brought under this Act. 1961-62, c. 84, s. 26. Practice and procedure

CHAPTER 282

The Motor Vehicle Fuel Tax Act**1. In this Act,**Interpre-
tation

- (a) "fuel" means any gas or liquid that may be used for the purpose of generating power for the propulsion of a motor vehicle, except such products as are excluded from this Act by the regulations;
- (b) "fuel tank" means that part of a motor vehicle in which fuel to propel it is kept;
- (c) "Minister" means the Minister of Revenue;
- (d) "motor vehicle" means a machine operated, propelled or driven otherwise than by muscular power on a highway or in connection with the construction or maintenance of a highway;
- (e) "purchaser" means a person who, not being a registrant, receives fuel from a registrant, or means a registrant who receives fuel from a registrant in other than a storage tank, but "purchaser" does not include a person who receives fuel in a tank that is directly connected with a machine that is not a motor vehicle;
- (f) "registrant" means the holder of a registration certificate under this Act;
- (g) "regulations" means the regulations made under this Act;
- (h) "storage tank" means a receptacle that has a capacity of forty or more imperial gallons, but does not include a fuel tank;
- (i) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 248, s. 1, *amended*.

2.—(1) No person shall supply fuel, and no person shall receive fuel as a registrant, unless a registration certificate has been, upon his application, issued to him under this Act and unless such certificate is in force at the time of the supplying or receiving, as the case may be. R.S.O. 1960, c. 248, s. 2 (1).

Registration
certificates

(2) The application for a registration certificate shall be filed with the Minister and shall contain such information as he requires.

Application

Issue	(3) Subject to clause <i>a</i> of subsection 5, the registration certificate shall be issued by the Minister upon payment of \$1 by the applicant to the Treasurer. R.S.O. 1960, c. 248, s. 2 (2, 3), <i>amended</i> .
Expiry	(4) Subject to clause <i>b</i> of subsection 5, every registration certificate remains in force until the 31st day of March next following the date of its issue and is not transferable. R.S.O. 1960, c. 248, s. 2 (4).
Refusal to issue and cancellation	<p>(5) The Minister may,</p> <p>(a) refuse to issue a registration certificate to any applicant; or</p> <p>(b) suspend or cancel any registration certificate if the person to whom it was issued or any of his employees contravenes any of the provisions of this Act,</p> <p>but before a refusal, suspension or cancellation is made, the applicant or such person, as the case may be, shall be afforded an opportunity to appear before the Minister to show cause why the issuance of a registration certificate should not be refused or why the registration certificate should not be suspended or cancelled, as the case may be. R.S.O. 1960, c. 248, s. 2 (5); 1961-62, c. 85, s. 1 (1), <i>amended</i>.</p>
Penalty	(6) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100. 1961-62, c. 85, s. 1 (2).
Tax	3. —(1) Every purchaser shall pay to the Treasurer a tax at the rate of 24 cents per imperial gallon on all fuel received by him. R.S.O. 1960, c. 248, s. 3 (1); 1968, c. 74, s. 1 (1).
Idem	(2) Every registrant shall pay to the Treasurer a tax at the rate of 24 cents per imperial gallon on all fuel used by him to generate power for the propulsion of a motor vehicle. R.S.O. 1960, c. 248, s. 3 (2); 1968, c. 74, s. 1 (2).
Time of payment	(3) The tax imposed by subsection 1 shall be paid at the time the fuel is supplied to the purchaser, and the tax imposed by subsection 2 shall be paid in accordance with section 9. R.S.O. 1960, c. 248, s. 3 (3).
Penalty	(4) Every person who fails to pay the tax imposed by subsection 1 or 2 when required by this Act is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of the tax he failed to pay and \$10, and not more than the amount of the tax he failed to pay and \$1,000. 1961-62, c. 85, s. 2.
Where products excluded become taxable fuel	(5) Where a person places any product that is excluded from this Act by the regulations in a fuel tank, such product is no longer

so excluded and is taxable as fuel under this Act, and the person so doing shall forthwith pay the tax imposed by subsection 1 on such fuel to the Treasurer directly or through any registrant.

(6) Every person who fails to comply with subsection 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$1,000. R.S.O. 1960, c. 248, s. 3 (5, 6). Offence

4.—(1) Where there are more than forty imperial gallons of fuel in the fuel tank, including any supplemental tanks, of a motor vehicle, such fuel shall be deemed to have been purchased in Ontario, and the person in charge of any such motor vehicle shall have in his possession proof that the tax imposed by this Act was paid on the portion of such fuel in excess of forty imperial gallons. Duty of operator where more than 40 gallons in fuel tank

(2) Every person who fails to comply with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. Offence

(3) This section does not apply to a public commercial vehicle for which there has been issued a Class L single-trip permit under *The Public Commercial Vehicles Act*. R.S.O. 1960, c. 248, s. 4. Exception
R.S.O. 1970, c. 375

5. Every registrant shall inform every purchaser of the price of the fuel and shall, upon request therefor, deliver to him an invoice showing, Invoice

- (a) the number of his registration certificate;
- (b) the cost of the fuel to the purchaser; and
- (c) the amount of the tax paid by the purchaser. R.S.O. 1960, c. 248, s. 5.

6. The Minister may require any registrant to furnish a surety bond on such terms and conditions and in such amount as the Minister considers appropriate. R.S.O. 1960, c. 248, s. 6, *amended*. Surety bond

7.—(1) Subject to subsection 2, every registrant shall, as agent of the Minister, collect from the purchaser the tax imposed by this Act. R.S.O. 1960, c. 248, s. 7 (1), *amended*. Collection

(2) No registrant shall collect the tax imposed by this Act on fuel supplied by him to a registrant who is not a purchaser. R.S.O. 1960, c. 248, s. 7 (2). Exception

(3) For the purpose of collecting the tax, the Minister may enter into such arrangement with a registrant as he deems expedient and he may provide for the payment of such remuneration to the registrant as he deems appropriate. R.S.O. 1960, c. 248, s. 7 (3), *amended*. Arrangements for collection

Tax to
be trust
moneys

(4) Every registrant shall be deemed to hold the moneys collected by him under this Act in trust for the Crown in right of Ontario. R.S.O. 1960, c. 248, s. 7 (4).

Penalty for
failure to
collect tax

(5) Every registrant who refuses or neglects to collect the tax in accordance with this Act is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of the tax that he refused or neglected to collect and \$10, and not more than the amount of the tax that he refused or neglected to collect and \$1,000.

Penalty for
failure of
employee to
collect tax

(6) Every employee of a registrant who permits or authorizes or is a party or privy to supplying fuel to a purchaser without collecting from the purchaser the tax imposed by this Act is guilty of an offence and on summary conviction is liable to a fine equal to the amount of the tax and \$50. 1961-62, c. 85, s. 3.

Returns

8.—(1) Every registrant shall,

- (a) on or before the 25th day of each month, without notice or demand; or
- (b) on or before the day designated in the demand of the Minister served on the registrant by hand or by registered letter,

deliver to the Minister such return as he requires for the purpose of carrying out this Act. R.S.O. 1960, c. 248, s. 8 (1), *amended*.

Verification
of returns

(2) Every return shall be verified by the certificate of the registrant and, if the registrant is not an individual, of its president or its resident manager or representative in Ontario, certifying that the financial and other statements of information included therein or attached thereto are in agreement with the books of the registrant and exhibit truly, correctly and completely all information for the period covered by the return. R.S.O. 1960, c. 248, s. 8 (2).

Penalty for
failure to
deliver
return

(3) Every registrant who fails to comply with subsection 1 shall pay a penalty of,

- (a) \$10; or
- (b) 5 per cent of the tax payable by him and 5 per cent of the tax collectable by him,

whichever is the greater, but in no case shall such penalty be more than \$500. - 1961-62, c. 85, s. 4, *part*.

Penalty for
failure to
complete
return

(4) Every registrant who fails to complete the information required in the return to be delivered to the Minister under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of \$20. 1961-62, c. 85, s. 4, *part, amended*.

9.—(1) Every registrant shall transmit with the return required by section 8 the amount of the tax payable by him or payable and collectable by him, as the case may be, as shown therein. Transmission
of tax

(2) Where a registrant transmits less than the amount of the tax payable by him or payable and collectable by him, as the case may be, as shown by the return, he shall pay to the Treasurer interest at the rate of 7 per cent per annum upon the deficiency calculated from the date of default until the date of transmission to the Treasurer. R.S.O. 1960, c. 248, s. 9. Deficiency

10.—(1) If the Minister, in order for him to make an accounting of the tax collectable by a registrant or of the tax payable by a registrant under this Act or for any other purpose, desires any information or additional information, or a return from a registrant who has not made a return or a complete or sufficient return, he may, by registered letter, demand from the registrant, or from the president, manager, secretary, or any director, agent or representative thereof, such information, additional information or return, and such registrant, president, manager, secretary, director, agent or representative upon whom the demand is made shall deliver to the Minister the information, additional information or return within the time specified in the registered letter. Demand for
additional
information

(2) The Minister may, by registered letter, require the production under oath or otherwise by any registrant, or by the president, manager, secretary, or any director, agent or representative thereof, or by any person, partnership, syndicate, trust or company holding or paying or liable to pay any portion of the income of such registrant, or by any partner, agent or official of any such person, partnership, syndicate, trust or company, of any letters, accounts, invoices, statements or other documents. Production
of letters,
accounts,
etc.

(3) If a registrant fails or refuses to keep adequate books or accounts for the purpose of ascertaining the amount of the tax payable by him or payable and collectable by him, as the case may be, the Minister may require such registrant to keep such records and accounts as he specifies. R.S.O. 1960, c. 248, s. 10 (1-3), *amended*. Books and
accounts
to be kept

(4) For every default in complying with subsection 1, 2 or 3, the person in default is guilty of an offence and on summary conviction is liable to a fine of \$25 for each day during which the default continues. 1961-62, c. 85, s. 5. Penalty

(5) For the purposes of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Minister, as well as the failure of any person to comply with the requirements of this Act, are sufficiently proved in any court by affidavit of the Minister or any officer of the Department of Revenue. Compliance
of Minister,
etc.,
to be proved
by affidavit

Inquiry as to amount of tax collectable or payable

R.S.O. 1970, c. 379

(6) Any officer authorized by the Minister may make such inquiry as he considers necessary to ascertain the amount of any tax collectable by a registrant or any tax payable by a registrant under this Act, and for the purposes of such inquiry such officer has all the powers and authority that may be conferred upon a commissioner under *The Public Inquiries Act*.

Minister not bound by return

(7) No return or information supplied by or on behalf of a registrant is binding upon the Minister, and notwithstanding any such return or information, or in the absence of any return or information, the Minister may determine the amount of the tax collectable by any registrant or of the tax payable by any registrant.

Notice of accounting

(8) After examination of the return of a registrant, the Minister shall send a notice of accounting to such registrant verifying or altering the amount of tax shown to be collectable by the registrant or to be payable by the registrant in his return, and any additional tax found to be collectable or payable, as the case may be, over the amount shown in the return shall be transmitted within one month from the date of mailing of the notice of accounting and, subject to section 9, such additional tax shall bear interest at the rate of 4 per cent per annum calculated from the last date prescribed for making the return to the date of transmission to the Treasurer. R.S.O. 1960, c. 248, s. 10 (5-8), *amended*.

Penalty

(9) If a registrant fails to transmit the additional tax and interest within one month after the date of the mailing of the notice of accounting, he shall pay to the Treasurer, in addition to the interest provided by subsection 8, interest at the rate of 3 per cent per annum upon the additional tax from the expiry of the period of one month after the date of the mailing of the notice of accounting to the date of transmission to the Treasurer. R.S.O. 1960, c. 248, s. 10 (9).

Time for making return

11. The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1960, c. 248, s. 11, *amended*.

Declarations and affidavits

12. Declarations and affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge a fee therefor. R.S.O. 1960, c. 248, s. 12.

False statements

13. Every person who makes a false statement in any return or in any information made or furnished to the Minister under this Act is guilty of an offence and on summary conviction is liable

to a fine of not more than \$1,000 or to imprisonment for not more than six months, or both. R.S.O. 1960, c. 248, s. 13, *amended*.

14. Notwithstanding any prior accounting or where no accounting has been made, the registrant continues to be liable for any tax that is collectable by him and for any tax that is payable by him and that has not been transmitted to the Treasurer. R.S.O. 1960, c. 248, s. 14. Continuance
of liability

15. The fines imposed for offences under this Act shall be paid over to the Treasurer, and every penalty imposed by this Act is payable upon and in accordance with the demand of the Minister therefor. 1961-62, c. 85, s. 6, *amended*. Disposition
of fines;
penalties
payable on
demand

16.—(1) Upon default of transmission by a registrant of any tax collectable by him or of any tax or penalty payable by him under this Act, Recovery
of tax and
penalty

(a) the Minister may bring an action for recovery thereof in any court of competent jurisdiction and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury; or

(b) the Minister may issue a warrant and direct it to the sheriff of any county or district in which any property of the registrant is located or situate, for the amount of the tax, interest and penalty, or any of them owing by the registrant, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court; or

(c) the Minister or any officer authorized by him may enter upon the premises of the registrant or any other place in Ontario where the books or records of the registrant or any part of them are kept and make such investigation and examination as he considers necessary, and may seize any of the books and records and may, by notice in writing, require that any person who may be indebted to the registrant shall pay the debt to the Treasurer.

(2) A notice under clause *c* of subsection 1 may be served personally or by registered letter addressed to such person at the address indicated in the books or records of the registrant and the receipt of payment of the amount of the indebtedness by the Treasurer constitutes a good and sufficient discharge of the liability of such person to the registrant to the extent of the amount indicated in the receipt. Manner of
serving
notice

Liability
of debtor

(3) Any person discharging any liability to a registrant owing taxes collectable by him or owing taxes or penalties payable by him under this Act after the service of the notice referred to in subsection 2 is personally liable to the Treasurer to the extent of the amount of the liability discharged between the person and the registrant or to the extent of the amount of taxes collectable by the registrant and of taxes, interest and penalties payable by him, whichever is the lesser amount, and the Treasurer has the same remedies for the recovery of such amount from such person as he has for the recovery from the registrant of a tax collectable by him or of a tax or penalty payable by him under this Act. R.S.O. 1960, c. 248, s. 16.

Priority
of tax

17. Every tax collectable and every tax and penalty payable by a registrant under this Act is a first lien and charge upon his property in Ontario. R.S.O. 1960, c. 248, s. 17.

Refunds

18.—(1) The Treasurer may refund a tax imposed under this Act where the fuel on which the tax was paid was used for a purpose other than to generate power for the propulsion of a motor vehicle.

Idem

(2) A refund under subsection 1 shall not be made unless an application therefor, accompanied by properly receipted invoices, is forwarded to the Minister within six months from the date of payment of the invoices and unless the application and all material furnished therewith are true in every respect.

Refunds
of over-
payments

(3) The Treasurer may refund before or after the issue of the notice of accounting any amount that the registrant has transmitted in excess of the taxes collectable by him and of the taxes, interest and penalties payable by him, if application in writing is made therefor by the registrant within six months of the date of transmission of the tax or the date on which the notice of accounting was issued. R.S.O. 1960, c. 248, s. 18.

Information
to be secret

19.—(1) Subject to subsection 2, no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Communica-
tion of
information
to other
jurisdictions

(2) The Minister may,

- (a) communicate or allow to be communicated information obtained under this Act; or
- (b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the Government of Canada or any province of Canada provided that the information and written

statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax. 1964, c. 67, s. 2, *amended*.

(3) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 248, s. 19 (2). Offence

20. The use of a remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act are in addition to other remedies existing by law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1960, c. 248, s. 20. Remedies
for recovery
of tax and
penalties

21. The Lieutenant Governor in Council may make regulations, Regulations

- (a) excluding products from this Act;
 - (b) exempting any class of persons from the payment of the tax imposed under this Act;
 - (c) refunding any tax or any portion thereof paid under this Act to any purchaser or class of purchasers and prescribing the records and material to be furnished upon application for a refund;
 - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 248, s. 21.
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CHAPTER 283

The Motorized Snow Vehicles Act

1. In this Act,

- (a) "Department" means the Department of Transport;
- (b) "highway" means a highway as defined in *The Highway Traffic Act*;
- (c) "Minister" means the Minister of Transport;
- (d) "motorized snow vehicle" means a self-propelled vehicle designed to be driven exclusively on snow or ice or both;
- (e) "regulations" means the regulations made under this Act. 1968, c. 75, s. 1; 1970, c. 73, s. 1.

Interpre-
tationR.S.O. 1970,
c. 202

2.—(1) The owner of every motorized snow vehicle shall register it with the Department before driving it or causing or permitting it to be driven and shall pay to the Department a fee for the registration thereof and for the number plate therefor.

Registration

(2) The Minister shall issue or cause to be issued for each motorized snow vehicle so registered a numbered permit stating that the motorized snow vehicle is registered in accordance with this Act, and shall cause the name of the owner, his address and the number of his permit to be entered in a book to be kept for that purpose.

Permit

(3) Every motorized snow vehicle while being driven shall have attached to and exposed on the front thereof, in a conspicuous position, a number plate furnished by the Department showing in plain figures the number of the permit issued for the current year or any part thereof.

Number
plate

(4) This section does not apply,

- (a) to manufacturers of motorized snow vehicles or to dealers in motorized snow vehicles in relation to motorized snow vehicles,
 - (i) that are kept for sale and are not driven or permitted to be driven upon a highway, or
 - (ii) that are not rented or leased or kept for renting or leasing to any person;
- (b) to a motorized snow vehicle owned by a person who does not reside in Ontario if such vehicle is registered in some other jurisdiction and has attached to it the number plate furnished by such other jurisdiction.

Exceptions
as to manu-
facturers,
dealers,
non-
residents

Number
plate
property
of Crown

(5) Every number plate furnished by the Department under this Act is the property of the Crown.

Local
issuance
of permits

(6) The Minister may give authority to any person to issue permits for motorized snow vehicles and may define the duties and powers of such person and may authorize and fix the fee to be retained by the person so authorized for each permit issued. 1968, c. 75, s. 2.

False
statement

3.—(1) No person shall knowingly make a false statement of fact in any application, declaration, affidavit or paperwriting required by this Act or the regulations.

Change of
address

(2) Where an owner changes his address as given under subsection 2 of section 2, he shall within six days send by registered mail or cause to be filed in the Department his change of address, and every subsequent change of address. 1968, c. 75, s. 3.

Number
plate
to be kept
clean,
unob-
structed

4.—(1) When a motorized snow vehicle is being driven, the number plate thereon shall be kept free of dirt and the view thereof shall not be obscured or obstructed by any part of the motorized snow vehicle or any equipment or attachment thereon or by the load carried thereon.

Violations
re number
plates

(2) No person shall,

- (a) deface or alter any number plate furnished by the Department;
- (b) use or permit the use of a defaced or altered number plate on a motorized snow vehicle; or
- (c) use or permit the use of any number plate upon a motorized snow vehicle except the one furnished by the Department for the motorized snow vehicle. 1968, c. 75, s. 4.

King's
Highway,
driving on

5.—(1) Except as permitted by the regulations, no person shall drive a motorized snow vehicle upon the King's Highway or a secondary highway.

Regulations

(2) The Minister may make regulations designating any part or parts of the King's Highway or a secondary highway along or across which motorized snow vehicles may be driven. 1968, c. 75, s. 5.

Local
municipality
may pass
by-laws

6.—(1) The council of a local municipality may pass by-laws regulating, governing or prohibiting the operation of motorized snow vehicles within the municipality including any highways therein or any part or parts thereof.

(2) Where a by-law is passed under subsection 1, the provisions regulating or governing the operation of motorized snow vehicles under the by-law do not apply to highways or any part or parts thereof that are not under the jurisdiction of the local municipality.

Application of subs. 1

(3) The council of a county or of a district, metropolitan or regional municipality may pass by-laws regulating and governing the operation of motorized snow vehicles along or across any highway or part of a highway under its jurisdiction.

County or municipalities may pass by-laws

(4) Where the operation of motorized snow vehicles is not prohibited on a highway under the jurisdiction of a county, district, metropolitan or regional municipality by a by-law passed under subsection 1, the council of such municipality may pass by-laws prohibiting the operation of motorized snow vehicles along or across such highway or any part thereof.

County or municipalities may pass prohibiting by-laws

(5) Part XXI of *The Municipal Act* applies to by-laws passed under this section. 1970, c. 73, s. 2.

Application of R.S.O. 1970, c. 284

7.—(1) No person under the age of sixteen years shall drive a motorized snow vehicle upon a highway.

Driver under 16 prohibited

(2) The owner of a motorized snow vehicle shall not permit any person under the age of sixteen years to drive the motorized snow vehicle upon a highway. 1968, c. 75, s. 7.

Owner not to permit driver under 16

(3) Where the operation of a motorized snow vehicle is permitted on a highway under this Act, no person shall drive a motorized snow vehicle on a highway, unless he holds an operator's or chauffeur's licence issued under the authority of *The Highway Traffic Act*.

Driver on a highway to hold operator's or chauffeur's licence
R.S.O. 1970, c. 202

(4) Subsection 3 does not apply to any person who is,

Exception to subsection 3

(a) a resident of any other province of Canada; or

(b) a resident of any other country or state,

and who has complied with the laws of the province, country or state in which he resides as to the licensing of drivers of motorized snow vehicles and provided the province, country or state grants similar exemptions and privileges with respect to the drivers of motorized snow vehicles.

(5) No person who is the owner or in possession or control of a motorized snow vehicle shall permit any person who is not the holder of a chauffeur's licence or operator's licence to operate or drive the motorized snow vehicle on a highway. 1970, c. 73, s. 3.

Owner not to permit unauthorized driver

8. The provisions of *The Highway Traffic Act*, except Part XI, and of *The Motor Vehicle Accident Claims Act* do not apply to a motorized snow vehicle or to the driving thereof. 1968, c. 75, s. 8.

Application of R.S.O. 1970, cc. 202, 281

Insurance

R.S.O. 1970,
c. 224

9.—(1) No person shall drive a motorized snow vehicle upon a highway unless he is insured under a motor vehicle liability policy in accordance with *The Insurance Act*, and the owner of a motorized snow vehicle shall not permit any person to drive the vehicle upon a highway unless the driver is so insured.

Production
of evidence
of insurance

(2) The owner of a motorized snow vehicle who drives or permits the driving of the motorized snow vehicle on a highway shall, upon the request of a constable or other police officer, produce evidence that the motorized snow vehicle or the driver thereof is insured under a motor vehicle liability policy in accordance with *The Insurance Act*.

Offence for
failure to
produce
evidence

(3) Every owner of a motorized snow vehicle who fails to produce evidence under subsection 2 when requested to do so or within a reasonable time of such request is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.

Offence for
producing
false
evidence

(4) Every owner of a motorized snow vehicle who produces false evidence when he is required to produce evidence under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. 1968, c. 75, s. 9.

Reporting
of collision

10.—(1) Every person in charge of a motorized snow vehicle who is directly or indirectly involved in a collision shall, if the collision results in injury to any person or in damage to property of any person other than the owner or driver, apparently exceeding \$200, report the collision forthwith to the nearest provincial or municipal police officer and furnish him with information in respect of,

- (a) the names and addresses of the persons involved;
- (b) the date and location of the occurrence; and
- (c) the circumstances under which the collision occurred.

Disposition
of report

(2) A police officer receiving a report of a collision as required by this section shall forward such report to the Registrar of Motor Vehicles within ten days of its receipt. 1970, c. 73, s. 4, *part*.

Owner and
driver liable
for
penalties

11. The owner of a motorized snow vehicle shall incur the penalties provided for any contravention of this Act or of any regulation or of any municipal by-law regulating, governing or prohibiting the operation of motorized snow vehicles, unless at the time of the contravention the motorized snow vehicle was in the possession of some person other than the owner without the owner's consent, and the driver or operator of the motorized snow vehicle, not being the owner, shall also incur the penalties provided for any such contravention. 1970, c. 73, s. 4, *part*.

12. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing rules for driving motorized snow vehicles upon a highway or any place other than a highway and requiring compliance therewith by every person driving a motorized snow vehicle;
- (b) requiring the use or incorporation of any equipment or device in or on motorized snow vehicles and prescribing the specifications therefor;
- (c) providing for the registration of motorized snow vehicles and for the issue, renewal, replacement or transfer of permits and number plates under this Act, and for the payment of fees therefor, and prescribing the amount of such fees;
- (d) providing for the payment of fees for copies of or access to any writing, paper or document filed in the Department pursuant to this Act or the regulations, or any statement containing information from the records of the Department, and prescribing the amount of such fees. 1968, c. 75, s. 10.

13. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction where a fine for the contravention is not otherwise provided for herein is liable to a fine of not less than \$20 and not more than \$100. 1968, c. 75, s. 11. Offences and fines

CHAPTER 284

The Municipal Act

1. In this Act,

Interpre-
tation

1. "arbitration" means an arbitration under this Act;
2. "assessment commissioner", in relation to a municipality, means the assessment commissioner appointed under *The Assessment Act* for the assessment region in which the municipality is situate;
R.S.O. 1970,
c. 32
3. "Assessment Review Court" means the Assessment Review Court established by *The Assessment Act*;
4. "assessor" means the assessment commissioner and anyone acting under his authority;
5. "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over or across which a highway passes;
6. "city", "town", "village", "township" and "county" respectively mean a city, town, village, township or county, the inhabitants of which are a body corporate within the meaning and for the purposes of this Act;
7. "debt" includes obligation for the payment of money;
8. "Department" means the Department of Municipal Affairs;
9. "electors", when applied to a municipal election, means the persons entitled to vote at a municipal election; when applied to voting on a money by-law, means the persons entitled to vote on the by-law; and when applied to voting on any other by-law or on a resolution or question, unless otherwise provided by the Act, by-law or other authority under which the vote is taken, means municipal electors;
10. "highway" means a common and public highway, and includes a street and a bridge forming part of a highway or on, over or across which a highway passes;
11. "land" includes lands, tenements and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water;
12. "local municipality" means a city, town, village and township;

13. "member", referring to a member of a council, includes the head of the council and a member of a board of control;
14. "money by-law" means a by-law for contracting a debt or obligation or for borrowing money other than a by-law passed under section 332;
15. "Municipal Board" means the Ontario Municipal Board;
16. "municipal electors" means the persons entitled to vote at a municipal election;
17. "municipality" means a locality the inhabitants of which are incorporated;
18. "population" means the population as determined by the last preceding census taken under the authority of the Parliament of Canada, or under a by-law of the council, or by the last preceding municipal enumeration by the assessor, whichever is the latest, or by such means as the Municipal Board may direct;
19. "prescribed" means prescribed by or under the authority of this Act;
20. "published" means published in a daily or weekly newspaper that, in the opinion of the clerk of the municipality, has such circulation within the municipality as to provide reasonable notice to those affected thereby, and "publication" has a corresponding meaning;
21. "separated town" means a town separated for municipal purposes from the county in which it is situate;
22. "sewage" includes drainage, storm water, commercial wastes and industrial wastes;
23. "Supreme Court" means the Supreme Court of Ontario;
24. "township" includes a union of townships and a municipality composed of two or more townships;
25. "two-thirds vote" means the affirmative vote of two-thirds of the members of a council present at a meeting thereof;
26. "unorganized territory" means that part of Ontario without county organization;
27. "urban municipality" means a city, town and village. R.S.O. 1960, c. 249, s. 1; 1965, c. 77, s. 1; 1968-69, c. 74, s. 1.

2.—(1) Where under this Act evidence is taken orally before a special examiner or a judge, he may direct that the evidence be taken in shorthand by a stenographic reporter.

Evidence may be taken in shorthand

(2) The fees of the stenographic reporter including those for the transcribing of his notes shall be paid by the party on whose behalf the evidence is taken, and shall form part of the costs of the proceedings in which the evidence is taken. R.S.O. 1960, c. 249, s. 2.

Fees of reporter, how paid

3. Where registration in a registry office is prescribed or provided for by this Act, it means, where *The Land Titles Act* is applicable, registration in the office of the proper master of titles of the locality in which the land is situate. R.S.O. 1960, c. 249, s. 3, *amended*.

Registration in office of land titles
R.S.O. 1970, c. 234

4. A person in the actual occupation of land,

When occupant deemed to be owner

- (a) under an agreement with the owner for the purchase of it; or
- (b) sold by the Director in accordance with the *Veterans' Land Act* (Canada),

R.S.C. 1952, c. 280

shall be deemed to be the owner, and the unpaid purchase money or balance, as the case may be, shall be deemed to be an encumbrance on the land. R.S.O. 1960, c. 249, s. 4.

5. Where power to acquire land is conferred upon a municipal corporation by this or any other Act, unless otherwise expressly provided, it includes the power to acquire by purchase or otherwise and to enter on and expropriate. R.S.O. 1960, c. 249, s. 5.

Power to acquire includes expropriation

6. Except where otherwise expressly provided, this Act does not affect the provisions of any special Act relating to a particular municipality. R.S.O. 1960, c. 249, s. 6.

Special Acts not affected

7. The inhabitants of every county, city, town, village and township are a body corporate for the purposes of this Act. R.S.O. 1960, c. 249, s. 7.

Inhabitants of municipalities to be bodies corporate

8. The name of the body corporate is "*The Corporation of the County [United Counties, City, Town, Village, Township (as the case may be)] of (naming the municipality)*". R.S.O. 1960, c. 249, s. 8.

Names of municipal corporations

9. The powers of a municipal corporation shall be exercised by its council. R.S.O. 1960, c. 249, s. 9.

Council to exercise corporate powers

PART 1

FORMATION, ERECTION, ALTERATION OF
BOUNDARIES, AND DISSOLUTION OF
MUNICIPALITIES, ETC.

INCORPORATIONS AND ERECTIONS

Interpre-
tation

10.—(1) In this section, “inhabitant” means a permanent resident or a temporary resident having a permanent dwelling within the locality.

Improve-
ment
districts

(2) The Municipal Board, upon the application of the Department or of not less than thirty inhabitants of a locality having a population of not less than fifty, may incorporate the inhabitants of the locality or a larger or smaller locality as an improvement district.

Townships

(3) The Municipal Board, upon the application of not less than seventy-five inhabitants of a locality having a population of not less than 1,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a township or union of townships.

Villages

(4) The Municipal Board, upon the application of not less than seventy-five inhabitants of a locality having a population of not less than 500, may incorporate the inhabitants of the locality or a larger or smaller locality as a village. R.S.O. 1960, c. 249, s. 10 (1-4).

Idem

(5) The Municipal Board, upon the application of the trustees of a police village having a population of not less than 500, may incorporate the inhabitants of the locality comprising the police village as a village. R.S.O. 1960, c. 249, s. 10 (5); 1960-61, c. 59, s. 1.

Towns

(6) The Municipal Board, upon the application of not less than seventy-five inhabitants of a locality having a population of not less than 2,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a town.

Locality
interpreted

(7) An application may be made under subsection 2, 3, 4 or 6 with respect to a locality that includes, but is not composed of, a police village or part thereof, but no such application may be made with respect to a locality that includes an urban municipality or any part thereof.

Qualifica-
tions of
applicants

(8) No person is qualified to be an applicant under this section unless he is a British subject of the full age of twenty-one years.

(9) The Municipal Board, before making an order under this section, shall hold a public hearing in or adjacent to the locality affected, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. R.S.O. 1960, c. 249, s. 10 (6-9). Public hearing

11.—(1) Upon the application of an improvement district having a population of not less than 500, the Municipal Board may erect the improvement district into a village. Erection of improvement district, as village

(2) Upon the application of an improvement district having a population of not less than 1,000, the Municipal Board may erect the improvement district into a township. as township

(3) Upon the application of an improvement district having a population of not less than 2,000, the Municipal Board may erect the improvement district into a town. R.S.O. 1960, c. 249, s. 11 (1-3). as town

(4) Upon the application of a village or township having a population of not less than 2,000, the Municipal Board may erect the village or township into a town. 1966, c. 93, s. 1. Erection of village or township into town

- (5) Upon the application,
- (a) of a village or town having a population of not less than 15,000; or
 - (b) of a township having a population of not less than 25,000,

the Municipal Board may erect the village, town or township into a city. Erection of village, town or township into city

(6) An application by an improvement district, village, town or township under this section shall be authorized by by-law of the board of trustees of the improvement district or the council of the village, town or township, as the case may be, and notice of the application shall be published in such manner as the Municipal Board may direct. Application to be authorized by by-law

(7) An application for the erection of a city or town under this section may include an application for the annexation of any locality adjoining the applicant municipality and, where the Municipal Board considers it desirable that the adjoining locality, or any greater or smaller area, be included in the city or town, the Municipal Board may annex the locality or any greater or smaller area to the city or town in the order erecting it and, where the locality to be annexed forms part of another municipality or municipalities, detach it therefrom. Enlargement of area of city or town to be erected

(8) Where it is proposed that an adjoining locality be annexed to the city or town to be erected, the application for the erection shall so state and shall designate the locality to be annexed, and Idem

the provisions of section 14 shall apply with respect to the part of the application, and the order thereon, dealing with the proposed annexation.

Name,
boundaries,
etc.

12.—(1) Where a municipality is incorporated or erected, the order of the Municipal Board shall direct the name that the municipality shall bear, its boundaries, and the date when the incorporation or erection shall take effect, and may provide for any matters that the Board considers necessary for the establishment and carrying on of the municipality.

County

(2) Where an improvement district, village, town or township is incorporated out of parts of two or more counties, it shall be annexed to and form part of that one of the counties which the Municipal Board directs.

Additional
powers of
Board

(3) Without restricting the generality of subsection 1, the Municipal Board, by any order made upon an application for incorporation or erection or by any subsequent order or orders, may exercise all the powers conferred on it in the case of an amalgamation or annexation by subsections 8, 11, 16 and 18 of section 14, the provisions of which subsections apply *mutatis mutandis*. R.S.O. 1960, c. 249, s. 12 (1-3).

Order of
Board
conclusive

(4) The order of the Municipal Board incorporating or erecting a local municipality is conclusive evidence that all conditions precedent to the making of the order have been complied with and that the local municipality has been duly incorporated or erected in accordance with this Act, and such order shall be registered by the municipality affected as required by section 67 of *The Registry Act* as soon as practicable after the effective date of the order. R.S.O. 1960, c. 249, s. 12 (4); 1964, c. 68, s. 1.

R.S.O. 1970,
c. 409

WARDS

Wards

13.—(1) When a municipality is incorporated or erected, the Municipal Board shall divide a city and may divide any other local municipality into wards, and shall designate the name or number each ward shall bear.

Application
by council

(2) Upon the application of the council of a local municipality for the division or a new division of the municipality into wards, the Municipal Board, notwithstanding any general or special Act, may divide or redivide the municipality into wards in the manner provided in subsection 1 and shall declare the date when the division or redivision shall take effect.

Petition of
electors

(3) A petition of 75 electors in a municipality having not more than 5,000 electors and of 150 electors in a municipality having more than 5,000 electors may be presented to the council of any local municipality requesting the council to make an application to the Municipal Board to divide or redivide the municipality into wards, and, if the council refuses or neglects to make the

application within one month after the receipt by the clerk of the petition, the petitioners or any of them may apply to the Municipal Board for the division or a new division of the municipality into wards, and the Municipal Board, notwithstanding any general or special Act, may divide or redivide the municipality into wards in the manner provided in subsection 1 and shall declare the date when the division or redivision shall take effect.

(4) Where a municipality is divided or redivided into wards under this section, the Municipal Board, notwithstanding any general or special Act, may make all such provisions for the composition of any local board as defined in *The Department of Municipal Affairs Act* and for the number of members to be elected to any such local board from each ward as the Municipal Board considers necessary. 1962-63, c. 87, s. 1.

Composition
of local
boards

R.S.O. 1970,
c. 118

(5) Where a township containing one or more police villages is hereafter divided into wards under this section and the boundaries of the wards are such that the police village is within the boundaries of a ward or, where there is more than one police village, each of such police villages is within the boundaries of a different ward, each such police village is dissolved as of the date when the division into wards takes effect, and the provisions of section 25 apply *mutatis mutandis*.

Dissolution
of police
villages

(6) The Municipal Board, before making any order for the division or redivision into wards of a township containing one or more police villages, shall hold a public hearing in the municipality, after such notice thereof has been given as the Municipal Board may direct, for the purpose of inquiring into the merits of the application and the hearing of any objections that any persons may desire to bring to the attention of the Municipal Board.

O.M.B.
hearing

(7) Notwithstanding subsections 1, 4, 6, 7, 8, 9 and 10 of section 32 or any special Act, where a township containing one or more police villages is hereafter divided or redivided into wards, the Municipal Board may, in any order dividing or redividing the township into wards or by subsequent order or orders, make all such provisions for the composition of the council of the township as it may consider necessary or desirable, provided that there shall be a reeve to be elected by general vote and at least one councillor to be elected for each ward and one or more deputy Reeves to be elected by general vote or appointed by the council from its own members.

Power of
O.M.B. re
composition
of council

(8) A petition of 100 electors of a ward in a township in which a police village was dissolved under subsection 5 may be presented to the council of the township for the exercise of any of its powers to provide works or services in the ward of the kind that may be provided to a police village under section 482 and that may be lawfully provided within a defined area in the township and the

Petition
for works
or services
in wards

whole cost of which may be charged to such area, and, if the council,

- (a) where no approval of any other authority is required, refuses or neglects to exercise such powers within ninety days; or
- (b) where approval of some other authority is required, does not make the necessary application for such approval within sixty days; or
- (c) where the required approval has been obtained, does not exercise its powers within thirty days of the receipt of such approval,

the petitioners or any of them may appeal to the Municipal Board, and the Municipal Board shall hear the appeal, after such notice has been given as the Municipal Board may direct, and may dismiss the appeal or direct the council to pass a by-law or by-laws in accordance with its order. 1965, c. 77, s. 2.

ALTERATION OF BOUNDARIES

Interpre-
tation
R.S.O. 1970,
c. 118
Amalgama-
tions and
annexations

14.—(1) In this section, “local board” means a local board as defined in *The Department of Municipal Affairs Act*.

(2) Upon the application of any municipality authorized by by-law of the council thereof or upon the application of the Minister of Municipal Affairs authorized by the Lieutenant Governor in Council, or in respect of clause *d* upon the application of at least twenty-five inhabitants, being British subjects of the full age of twenty-one years, the Municipal Board may by order on such terms as it may consider expedient,

- (a) amalgamate the municipality with any other municipality or municipalities;
- (b) annex the whole or any part or parts of the municipality to any other municipality or municipalities;
- (c) annex the whole or any part or parts of any other municipality or municipalities to the municipality; or
- (d) annex any locality that does not form part of any municipality to the municipality,

and any such order may amalgamate or annex a greater or smaller area or areas than the area or areas specified in the application, whether or not the municipality, municipalities, or locality not forming part of a municipality, in which the area or areas is or are located, is or are specified in the application.

Assent of
electors

(3) The Municipal Board, before proceeding with the application of the council of any municipality under subsection 2, may require that the by-law of the council shall receive the assent of the electors of such municipality who are entitled to vote on money by-laws.

(4) The Municipal Board, before making any order under subsection 2, shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. R.S.O. 1960, c. 249, s. 14 (1-4).

Public
hearing to
be held
by Board

(5) If it appears that by reason of an application made under subsection 2 a municipality would, if an order were made granting the application, be left, in regard to size, assets, location or otherwise, in such condition that it would be desirable to annex the whole or part or parts of the municipality remaining after such order to some other contiguous municipality or municipalities, the Municipal Board may, after notice to such contiguous municipality or municipalities and a public hearing, order,

Annexation
of remaining
part of
municipality
following
order

(a) that the whole or part or parts of the municipality so remaining be annexed to such contiguous municipality or municipalities; and

(b) in the event that the whole of the municipality so remaining is annexed to some other municipality or municipalities, that the municipality is dissolved. 1960-61, c. 59, s. 2.

(6) Where in a municipality affected by a proposed annexation or amalgamation an official plan approved under *The Planning Act* or a predecessor thereof is in effect and a by-law of a municipality is passed to authorize an application for an order of the Municipal Board under this section, and a certified copy of the by-law has been sent to the Minister of Planning and Development before the 1st day of April, 1960, or to the Minister of Municipal Affairs on or after that date and to the planning board or planning boards having jurisdiction in any municipality or area affected by the application, the by-law shall not be deemed to be or be held invalid on the ground that it conflicts with the official plan.

Effect of
official
plan
R.S.O. 1970,
c. 349

(7) If a municipality to which the whole or part of another municipality is annexed or a municipality created by an amalgamation under this section has the requisite population, it may by such order be erected by the Municipal Board into a city or town bearing such name as the Board may direct.

City or
town may
be erected

(8) The Municipal Board may order a division or redivision of a municipality into wards if, in the opinion of the Board, the annexation or amalgamation renders such division or redivision necessary or desirable.

Division
into
wards

(9) If a petition signed by at least 150 electors of a town, village or township, or 500 electors of a city, praying that the whole or any part of the city, town, village or township may be annexed to an adjacent municipality on such terms as may be stated in the petition, is presented to the council of the city, town, village or

By-law
to be
submitted
on petition

township, the council shall, within four weeks after the presentation of the petition or within such longer period as the Municipal Board may fix, submit to the electors of the city, town, village or township for their assent thereto a by-law providing for such annexation on the terms mentioned in the petition, and if the by-law receives the assent of the electors the council shall forthwith make application for such annexation under subsection 2.

Interpre-
tation

(10) In subsection 9, "electors" means electors who are entitled to vote on money by-laws. R.S.O. 1960, c. 249, s. 14 (5-9).

Further
powers of
Municipal
Board

(11) The Municipal Board may, by any order made pursuant to an application under this section or by subsequent order or orders,

- (a) make all such adjustments of assets and liabilities as between the municipalities, including counties, affected by any such order as may be agreed upon or, in default of agreement, as the Board may consider equitable;
- (b) create, amalgamate or dissolve such local boards and make such adjustments of assets and liabilities of local boards as may be agreed upon or, in default of agreement, as the Board may consider equitable;
- (c) define special areas within the municipality as enlarged by such annexation or resulting from such amalgamation, having regard to the areas annexed thereto or amalgamated therein, and adjust the rights, claims, liabilities and obligations of the ratepayers of such areas and provide the extent to which the liabilities of such municipality shall be discharged by the imposition of rates upon the rateable property in such areas;
- (d) appoint one or more referees, who shall have all the powers mentioned in section 52 of *The Ontario Municipal Board Act*, to inquire into and report to the Board upon the adjustments of assets and liabilities and of rights, claims, liabilities and obligations referred to in clauses *a*, *b* and *c*, or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer it back to the referee or referees for further consideration, and the order of the Board adopting the report or varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby;
- (e) fix the remuneration and expenses of the referee or referees and declare by whom and in what manner the remuneration and expenses shall be paid;

R.S.O. 1970,
c. 323

- (f) subject to section 20, require the transfer of real property from either municipality or a local board thereof to the other municipality or a local board thereof, and take any such transfer into consideration in the adjustments of assets and liabilities;
- (g) vest real property of either municipality or a local board thereof in the other municipality or a local board thereof and take any such vesting into consideration in the adjustments of assets and liabilities;
- (h) make all such provisions for the composition of councils and local boards, the fixing of days for nominations, either before or subsequent to the day on which the annexation or amalgamation becomes effective, the appointment of returning officers, the holding of elections, the qualifications of candidates and electors, the preparation of first voters' lists and assessment rolls, the fixing of days for first meetings of councils and local boards, and for such other matters as it may consider necessary to provide for the effective administration of the enlarged or amalgamated municipality or of any local board thereof;
- (i) direct the name that shall be borne by any municipality affected by any such order;
- (j) where the holder of an operating licence under *The Public Vehicles Act* is adversely affected by the annexation or amalgamation, R.S.O. 1970,
c. 392
 - (i) authorize the municipality or municipalities to pay to the holder of the licence in respect of such adverse effect the amount of compensation agreed upon, or
 - (ii) direct what compensation, if any, shall be paid by the municipality or municipalities to the holder of the licence in respect of such adverse effect;
- (k) where by reason of any annexation order made under this section the taxable assessment of a local municipality is reduced by not less than 15 per cent as shown by the last revised assessment roll prior to the effective date of such annexation, authorize and direct the payment to such municipality or to a school board thereof by the annexing municipality or a school board thereof, to relieve such municipality or school board from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the annexation in such amounts and manner as may be agreed upon between the municipalities and the school boards and approved by the Municipal Board or, failing agreement, as the Municipal Board considers equitable;

- (l) where by reason of annexation orders made under this section within any three-year period the taxable assessment of a local municipality is reduced by not less than a total of 15 per cent as shown by the last revised assessment rolls prior to the effective date of each of such annexations, and no order has been made under clause *k*, authorize and direct the payment to such municipality or to a school board thereof by the annexing municipality or a school board thereof, to relieve such municipality or school board from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the last annexation in such amounts and manner as may be agreed upon between the municipalities and the school boards and approved by the Municipal Board or, failing agreement, as the Municipal Board considers equitable after a public hearing in each case;
- (m) where by reason of any annexation or amalgamation order made under this section a county will be deprived of not less than 15 per cent of its equalized assessment, authorize and direct the payment to such county by the annexing or amalgamated municipality, to relieve such county from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the annexation or amalgamation in such amounts and manner as may be agreed upon between the county and the annexing or amalgamated municipality and approved by the Board or, failing agreement, as the Board considers equitable;
- (n) where by reason of annexation or amalgamation orders made under this section within any three-year period a county will be deprived of not less than a total of 15 per cent of what its equalized assessment would have been except for such annexations or amalgamations, and no order has been made under clause *m*, authorize and direct the payment to such county by the annexing or amalgamated municipality, to relieve such county from any undue burden by reason of the loss of such assessment, of compensating grants during a period of not more than five years after the effective date of the last annexation or amalgamation in such amounts and manner as may be agreed upon between the county and the annexing or amalgamated municipality and approved by the Municipality Board or, failing agreement, as the Municipal Board considers equitable after a public hearing in each case;

- (o) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the amalgamation or annexation provided for in such order;
- (p) after a public hearing, if the Board is of the opinion that the last revised assessment of an annexed area or any portion thereof is on a higher basis than the last revised assessment of the annexing municipality and is therefore not equitable therewith, direct what percentage of the rates for all purposes to be levied for taxation in the annexing municipality shall be levied in the annexed area or any portion thereof, provided that an order under this clause may be made only in respect of the rates to be levied in either the first or the first and second annual levies after the date of the annexation. R.S.O. 1960, c. 249, s. 14 (10); 1965, c. 77, s. 3; 1966, c. 93, s. 2; 1967, c. 55, s. 1 (1); 1968-69, c. 74, s. 2.

(12) The Municipal Board may, by any order made pursuant to an application under this section or by subsequent order or orders, define urban services and cost of urban services and establish and, after establishment, alter one or more urban service areas within the municipality as enlarged by an annexation or resulting from an amalgamation and determine the manner in which and upon what lands or rateable property the cost of providing urban services is to be levied and raised by the municipality, and determine the manner in which and upon what lands or rateable property the liabilities, in respect of urban services of any of the municipalities as they existed prior to the annexation or amalgamation or in respect of urban services in whole or in part within an urban service area, shall be discharged by the imposition of rates in an urban service area.

(13) An order under subsection 12 does not affect any exemption or partial exemption from taxation or rates or provision therefor in any general or special Act.

(14) Section 29 of *The Assessment Act* applies to lands situated in an urban service area with respect to taxation or rates levied under or by virtue of an order made under this subsection as if the urban service area were the whole municipality. 1964, c. 68, s. 2 (1).

(15) Where compensating grants are to be determined by the Municipal Board under clause *k* or *m* of subsection 11, the determination shall not be made until after one complete fiscal year of the municipalities has elapsed following the date of the annexation or amalgamation.

(16) The Municipal Board may make such rules and regulations and issue such orders and directions in respect of any matter not specifically provided for in this section as it considers

Urban
service
areas

Effect of
order on
exemptions

Application
of
R.S.O. 1970,
c. 32, s. 29

Determina-
tion of
compensa-
ting grants
by Board

Municipal
Board may
make rules,
etc.

necessary or desirable in connection with any such annexation or amalgamation and every such rule, regulation, order and direction is valid and binding upon all municipalities and local boards interested in or affected thereby.

No order if
municipality
in default

(17) No order of annexation or amalgamation of any municipality or any part thereof shall be made under this section at a time when the municipality is in default in payment of any interest or principal in respect of its debentures.

Provisions
of this
section to
prevail

(18) The powers conferred upon the Municipal Board by this section may be exercised at any time or times notwithstanding any other provision in this Act or any other special or general Act and, in the event of any conflict between the provisions of this section and the other provisions of this Act or any other special or general Act, the provisions of this section prevail. R.S.O. 1960, c. 249, s. 14 (11-14).

Decision
granting
annexation
of amal-
gamation
R.S.O. 1970,
c. 323

(19) Section 94 of *The Ontario Municipal Board Act* does not apply to a decision of the Municipal Board providing for an annexation or amalgamation or refusing an application for an annexation or amalgamation and such decision,

- (a) shall be in writing;
- (b) shall identify the area to be annexed or amalgamated; and
- (c) shall fix the date when the annexation or amalgamation shall be effective,

and a copy of the decision shall be sent by the secretary of the Board by registered mail to the clerk of every municipality, including every county, affected by the decision, and to such other persons as the Board may direct. R.S.O. 1960, c. 249, s. 14 (15); 1968, c. 76, s. 1.

Notice of
objection

(20) No order shall be made under subsection 2 until the expiration of twenty-eight days after the mailing of the copies of the decision under subsection 19 and, within such period of twenty-eight days, notice of objection to the decision may be filed with the Clerk of the Executive Council.

Idem

(21) For the purposes of subsection 20, the notice of objection means an objection in writing, giving reasons therefor, that, according to the certificate of the clerk of the municipality, is signed by not less than 10 per cent of the persons qualified to vote on money by-laws who are resident in,

- (a) the municipality that has applied for the order; or
- (b) the area that by the decision is to be annexed to or amalgamated with the applicant municipality,

and includes, where there are no persons qualified to vote on money by-laws who are resident in the area to be annexed, an

objection in writing, giving reasons therefor, authorized by by-law of the council of the municipality in which such area is situated.

(22) An objection filed under subsection 20 may be withdrawn by the filing with the Clerk of the Executive Council, at any time before the Lieutenant Governor in Council has made an order under subsection 23, of a notice in writing of such withdrawal signed by one-third or more of the objectors provided that the then remaining objectors constitute not more than 10 per cent of the persons who were entitled to sign the objection under subsection 21, or, where the objection was authorized by the council of a municipality, of a certified copy of a by-law repealing the authorizing by-law.

Withdrawal
of objection

(23) Where an objection is filed in accordance with subsections 20 and 21 and is not withdrawn, the Lieutenant Governor in Council may by order,

Powers of
Lieutenant
Governor in
Council

- (a) confirm the decision of the Municipal Board; or
- (b) require the Municipal Board to hold a new public hearing of the annexation or amalgamation application before such members of the Board as the Lieutenant Governor in Council may designate.

(24) The decision of the Municipal Board,

Finality
of decision

- (a) where no objection is filed in accordance with subsections 20 and 21 or where the objections thereto are withdrawn in accordance with subsection 22; or
- (b) when confirmed by the Lieutenant Governor in Council; or
- (c) after a new public hearing ordered by the Lieutenant Governor in Council,

is final and not open to appeal, and the Board may thereupon make an order under subsection 2.

(25) Nothing in this section affects the application of section 95 of *The Ontario Municipal Board Act*. R.S.O. 1960, c. 249, s. 14 (16-21).

Application
of
R.S.O. 1970,
c. 323, s. 95

(26) Where part of a local municipality becomes part of a local municipality in another county or territorial district, it thereafter forms part of that county or territorial district except for the purpose of representation in the Assembly. 1967, c. 55, s. 1 (2).

Adding
parts to
municipality
in another
county or
territorial
district

(27) When an order is made under subsection 2, it shall be registered as required by section 67 of *The Registry Act* as soon as practicable after the effective date of the order,

Registration
of order
under
R.S.O. 1970,
c. 409, s. 67

- (a) where the order is made upon the application of the Minister of Municipal Affairs, by such Minister;

- (b) where the order is for annexation, by the municipality to which territory has been annexed; and
- (c) where the order is for amalgamation, by the new municipality. 1964, c. 68, s. 2 (2).

Alteration
of areas

15.—(1) Upon the application of a municipality to alter, enlarge, reduce or dissolve any fire, police, sewage, water or transportation area or local improvement area or street lighting area created under this or any other Act or any other area created for any municipal purpose, or to amalgamate any such area with any other area of a similar nature in the municipality or to divide any such area or areas into new areas, the Municipal Board may, on such terms as it considers expedient, by order make such alteration, enlargement, reduction, division, dissolution or amalgamation.

Public
hearing

(2) Unless under all the circumstances affecting the matter the Municipal Board considers unnecessary and by order dispenses with a public hearing, the Board shall, before making an order under this section, hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board.

Application
of s. 14

(3) The provisions of section 14, except subsections 4 and 19 to 25, apply *mutatis mutandis* to an application under this section. R.S.O. 1960, c. 249, s. 15.

Union of
townships

16.—(1) A union of townships shall consist of two or more townships united for municipal purposes and having in common, as if one township, all offices and institutions established by law pertaining to township municipalities.

Annexation
of town-
ships in
unorganized
territory
to county

(2) The Lieutenant Governor in Council may, by proclamation, annex a township, or two or more townships lying adjacent to one another laid out by the Crown in unorganized territory, to any adjacent county, and may erect the same with another township in the county into a union of townships.

Separation
of township
from union

(3) Upon the application of a union of townships, authorized by by-law of the council thereof, or upon the application of at least seventy-five inhabitants of one of the townships included in a union of townships, the Municipal Board may by order on such terms as it considers expedient separate the township in respect of which the application is made from the union of townships and,

- (a) incorporate the inhabitants of the separated township as a new township; or
- (b) erect the township with an adjoining township into a union of townships.

(4) Where a township is separated from a union of townships, the order of the Municipal Board shall direct the name that the remainder of the union shall bear, the name that the new township or union shall bear, the boundaries of the municipalities, and the date when the order shall take effect, and may provide for any matters that the Board considers necessary for the establishment and carrying on of the municipalities.

Names,
boundaries,
etc.

(5) The provisions of section 14, except subsections 19 to 25, apply *mutatis mutandis* to an application under subsection 3. R.S.O. 1960, c. 249, s. 16.

Application
of s. 14

MATTERS CONSEQUENT ON INCORPORATIONS,
ERECTIONS, ALTERATIONS OF BOUNDARIES, ETC.

17.—(1) The incorporation of a locality as an improvement district, township, village or town, or the erection of an improvement district into a village, township or town, or the erection of a village or township into a town, or the erection of a village, town or township into a city, or the separation of a township from a union of townships, does not affect the by-laws then in force in the locality or municipality, and they remain in force in the locality or municipality until repealed by the council of the newly incorporated or erected municipality. R.S.O. 1960, c. 249, s. 17 (1); 1968, c. 76, s. 2.

By-laws to
remain in
force on
incorpora-
tions, etc.

(2) Subject to subsection 4, the amalgamation of two or more municipalities does not affect the by-laws then in force in each of the former municipalities and they remain in force in each former municipality until repealed by the council of the new municipality. R.S.O. 1960, c. 249, s. 17 (2); 1964, c. 68, s. 3 (1).

Idem

(3) Nothing in this section authorizes the amendment or repeal of a by-law that the council by which it was passed could not lawfully amend or repeal. R.S.O. 1960, c. 249, s. 17 (3).

Proviso

(4) Where, on the date of an order of the Municipal Board providing for the amalgamation of two or more municipalities, there is a by-law, passed under section 2 of *The Municipal Franchise Extension Act*, in force in one or more of the municipalities, then,

By-laws
under
R.S.O. 1970,
c. 288

- (a) if the municipality or municipalities in which such a by-law is in force have more than 50 per cent of the population of the new municipality according to the last revised assessment rolls of the former municipalities, such by-law or by-laws shall be deemed to be in force for all purposes of the whole of the new municipality until repealed by the council of the new municipality; or
- (b) if the municipality or municipalities in which such a by-law is in force have less than 50 per cent of the population of the new municipality according to the last

revised assessment rolls of the former municipalities, such by-law or by-laws shall be deemed to be repealed for all purposes of the new municipality.

Dissolution of police village included in area erected into an urban municipality

(5) Where a township or part of a township in which a police village is situate is erected into an urban municipality, the police village or part of the police village within such township or part of a township is dissolved or detached, as the case may be, and clauses *d, e, f* and *j* of subsection 7 of section 25 and subsection 8 of section 25 apply *mutatis mutandis*. 1965, c. 77, s. 4.

By-laws in force in annexed territory

R.S.O. 1970, c. 349

1941, c. 35

18. Except where otherwise ordered by the Municipal Board, where a locality or a municipality is annexed to a municipality, the by-laws of the latter municipality extend to the locality or annexed municipality and the by-laws then in force in the locality or annexed municipality cease to apply to it, except by-laws relating to highways, by-laws designating areas of subdivision control and by-laws passed under section 35 of *The Planning Act* or a predecessor of such section or which are kept in force by subsection 3 of section 13 of *The Municipal Amendment Act, 1941*, which shall remain in force until repealed by the council of the annexing municipality, and except by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council that passed them. R.S.O. 1960, c. 249, s. 18.

Assets, etc., on annexations, amalgamations, erections

19.—(1) Where,

- (a) the whole of a municipality is annexed to another municipality;
- (b) two or more municipalities are amalgamated;
- (c) an improvement district is erected into a village, township or town;
- (d) a village or township is erected into a town;
- (e) a village, town or township is erected into a city,

all the assets and liabilities of the annexed or former municipality or municipalities and its or their local boards are assets and liabilities of the annexing or new municipality and its local boards, and the annexing or new municipality and its local boards for all purposes stand in the place and stead of the annexed or former municipality or municipalities and its or their local boards. R.S.O. 1960, c. 249, s. 19 (1); 1967, c. 55, s. 2; 1968, c. 76, s. 3.

Idem

(2) Without limiting the generality of subsection 1, the annexing or new municipality has the same rights and powers as respects the collection and recovery of all unpaid taxes imposed by the annexed or former municipality or municipalities, including those for the year in which the annexation, amalgamation or

erection takes place, as if such taxes had been imposed by the annexing or new municipality. R.S.O. 1960, c. 249, s. 19 (2).

20.—(1) Unless otherwise ordered by the Municipal Board, where a locality is incorporated as an improvement district, township, village or town, or is detached from one municipality and annexed to another, the real property belonging to the municipality from which the locality becomes or is detached and situated in the locality belongs to and is vested in the newly incorporated municipality or the annexing municipality, as the case may be, except a town hall and the land on which it is erected or which is used or enjoyed in connection with it, which shall remain the property of the municipality from which the locality becomes or is detached.

Disposition
of real
property,
on incor-
porations
and
annexations

(2) Unless otherwise ordered by the Municipal Board, where a township is separated from a union of townships, the real property belonging to the union of townships and situated in the separated township belongs to and is vested in the separated township and the remainder of the real property is the property of the remainder of the union. R.S.O. 1960, c. 249, s. 20.

on
separation
from union
of
townships

21.—(1) Except where otherwise provided by the Municipal Board, where a locality is incorporated as an improvement district, township, village or town, or is detached from one municipality and annexed to another, the taxes that were imposed by the municipality from which the locality becomes or is detached before the incorporation or annexation takes effect and are unpaid at the time the incorporation or annexation takes effect belong to the newly incorporated municipality or the annexing municipality, as the case may be, and may be collected and recovered by it as if they had been imposed by it.

Unpaid
taxes

(2) The unpaid taxes, the right to collect and recover which is transferred to the newly incorporated municipality or the annexing municipality under subsection 1, shall be taken into consideration upon the adjustment of assets and liabilities consequent upon the incorporation or annexation. R.S.O. 1960, c. 249, s. 21.

Idem

22.—(1) Where,

(a) a locality is incorporated as an improvement district, township, village or town;

Jurisdiction
of old
council on
incorpora-
tions, etc.

(b) an improvement district is erected into a village, township or town;

(c) a village or township is erected into a town;

(d) a village, town or township is erected into a city; or

(e) a township is separated from a union of townships,

and the council of the new municipality is not organized until after the time of the incorporation, erection or separation, the council having authority in the locality, municipality or separated township at the time of the incorporation, erection or separation shall, until the council of the new municipality is organized, continue to have the same powers as before the incorporation, erection or separation. R.S.O. 1960, c. 249, s. 22 (1); 1968, c. 76, s. 4.

Idem

(2) Where two or more municipalities are amalgamated and the council of the new municipality is not organized until after the time of the amalgamation, the council of each former municipality shall, until the council of the new municipality is organized, continue to have the same powers with respect to its municipality as before the amalgamation. R.S.O. 1960, c. 249, s. 22 (2).

Power to proceed with local improvements upon land annexed to another municipality
R.S.O. 1970, cc. 136, 255

23.—(1) Where a work or service coming within the provisions of *The Drainage Act* or of *The Local Improvement Act* has been undertaken by a municipality and, after it has become liable for the carrying out of the same, any land liable to be specially assessed becomes a new municipality or is annexed to another municipality, the municipality from which the land becomes or is detached may complete the work or service, and may enter upon and acquire any land lying within the new or annexing municipality necessary for the completion of such work or service, and may take all such proceedings, pass all such by-laws, make all such special and other assessments, impose all such special and other rates, issue and sell all such debentures, borrow all such money and do all such other acts and things as are necessary to complete the work or service and to provide for the cost thereof in the same manner as if the land so liable had not become a new municipality or been annexed to another municipality. R.S.O. 1960, c. 249, s. 23 (1), *amended*.

Municipality to which territory annexed to indemnify municipality undertaking work

(2) The municipality by which the work or service was undertaken shall be indemnified by the new municipality or the annexing municipality against all debts and liabilities incurred by it before the formation of the new municipality or the annexation for or in respect of any such work or service to the extent to which the land lying within such new or annexing municipality was specially assessed, and in adjusting the assets and liabilities consequent on the detachment of such land the debts incurred by the municipality from which it was detached, for its share of the cost of such work or service, shall be taken into account.

Assumption of debt where all of land specially assessed is detached

(3) Where the land specially assessed lies wholly within the new or annexing municipality, the latter is liable for the entire debt in respect of such work or service, and the clerk of the municipality from which the land was detached shall furnish the clerk of the new or annexing municipality with certified copies of all the by-laws relating to the work or service and the rates

imposed by such by-laws shall be collected by the new or annexing municipality, and the latter shall pay the principal and interest of the debentures issued in respect of the work or service as they become due and shall indemnify the municipality from which the land was detached against the same.

(4) Where only part of the land specially assessed lies within the new or annexing municipality, the clerk of the municipality from which it was detached shall furnish the clerk of the new or annexing municipality with a certified copy of the by-law imposing the special assessment, and the new or annexing municipality, in each year in which a special rate upon such lands is payable, shall collect the same and shall pay over the sums collected to the treasurer of the municipality from which such land was detached, when and as the same are collected, and in the adjustment of the assets and liabilities consequent upon the detachment of such land the debts incurred by the municipality from which it was detached for its share of the cost of the work or service shall be taken into account. R.S.O. 1960, c. 249, s. 23 (2-4).

Collection of special rates, etc., where only part of land specially assessed is detached

INTER-URBAN AREAS

24.—(1) Upon the application of a municipality as defined in *The Department of Municipal Affairs Act* for the creation of an area consisting of the applicant municipality or a part thereof and one or more other municipalities or parts thereof for the joint administration therein of education, fire protection, police protection, highways, sewers, sewage disposal, garbage disposal, public health including hospitals and hospitalization, welfare including assistance under *The General Welfare Assistance Act*, parks or any public utility as defined by *The Department of Municipal Affairs Act*, the Municipal Board may by order on such terms as it considers expedient create such area or a greater or smaller area for any or all of such purposes.

Power to create inter-urban administrative areas

R.S.O. 1970, cc. 118, 192

(2) Before proceeding with the application, the Municipal Board may require the matter to be voted upon by the electors entitled to vote on money by-laws in the area or any part thereof.

Vote of electors

(3) Before making an order under subsection 1, the Municipal Board shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board.

Public hearing to be held

(4) If a petition signed by at least 150 electors entitled to vote on money by-laws of any municipality other than a city or 500 such electors of a city praying that an application under subsection 1 be made is presented to the council, the council shall within six weeks after the presentation of the petition or, subject to the approval of the Municipal Board, at the next election submit to the electors entitled to vote on money by-laws for their assent

Petition

thereto a by-law or question setting out the nature of the application prayed for, and if such by-law or question receives the assent of such electors the council shall forthwith make such application to the Board.

Minister of
Municipal
Affairs
may apply

(5) The Lieutenant Governor in Council may authorize the Minister of Municipal Affairs to make an application under subsection 1 and in such case the Municipal Board has the same powers as if the application had been made by a municipality under subsection 1.

Powers of
Municipal
Board

(6) The Municipal Board may by order made pursuant to an application under this section or by subsequent order or orders,

- (a) make all such adjustments of assets and liabilities as between the municipalities affected by any such order as may be agreed upon or, in default of agreement, as the Board considers equitable;
- (b) create, amalgamate or dissolve such local boards and make such adjustments of assets and liabilities of local boards as may be agreed upon or, in default of agreement, as the Board considers equitable;
- (c) define special areas within the area created under this section and adjust the rights, claims, liabilities and obligations of the ratepayers of such areas and provide the extent to which liabilities shall be discharged by the imposition of rates upon the rateable property in such areas;
- (d) appoint one or more referees, who shall have all the powers mentioned in section 52 of *The Ontario Municipal Board Act*, to inquire into and report to the Board upon the adjustment of assets and liabilities and of the rights, claims, liabilities and obligations referred to in clauses *a*, *b* and *c*, or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer the report back to the referee or referees for further consideration, and the order of the Board adopting, varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby;
- (e) fix the remuneration and expenses of the referee or referees and declare in what proportion the remuneration and expenses shall be paid by the municipalities;
- (f) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the order.

R.S.O. 1970,
c. 323

(7) The Municipal Board shall order a division or redivision of the area into not less than three wards having regard to population and size, provided that no ward shall extend beyond the boundaries of the municipality in which it is situated unless it is agreed to the contrary by the municipalities in the area.

(8) The clerk of the municipality having the largest assessment shall act as secretary and returning officer of the area until a secretary-treasurer is appointed by the Board of Management.

(9) There shall be a board of management to be known as the Board of Management of the Inter-Urban Area of which shall be a body corporate composed of one member for each ward in the area, to be elected as hereinafter provided.

(10) Every person whose name is on the voters' list for the municipality or the part thereof within the ward as entitled to vote at municipal elections is entitled to vote at the election of the member of the Board of Management to be elected for such ward.

(11) The first election of the Board of Management and any local board shall be held at the time and in the manner directed by the Municipal Board, and each election thereafter shall be held at the same time and place as the municipal elections of the municipality in which the ward is situated.

(12) Except as provided in this section, the members of the Board of Management and any local board shall be elected by ballot and the election shall be conducted by the same officials and in the same manner as the elections of aldermen and councillors, and the provisions of this Act respecting the time and manner of holding elections, including the resignation of persons nominated, vacancies and declarations of qualification for office, and decision in the case of a tie vote, apply *mutatis mutandis* to such election.

(13) Each member so elected shall hold office for two years and until his successor is elected.

(14) The Board of Management shall appoint a secretary-treasurer for the area and Board of Management, who shall hold office during pleasure and who, subject to the by-laws of the Board of Management, with respect to the area and the administration of its affairs and of its inhabitants has and may exercise all the authority, powers and rights and shall perform all the duties and obligations that by statute or by-law are or may be conferred or imposed upon the clerk and treasurer of a municipality with the status designated by the Municipal Board in respect of the purposes for which the area is created.

(15) The auditors of the municipality having the largest assessment within the area shall be the auditors of the area and the local boards thereof.

Returning
officer

(16) The secretary-treasurer shall be the returning officer of the area and, in the event of two or more candidates in any ward having an equal number of votes, he shall give a vote for one of such candidates so as to decide the election.

Eligibility of
candidates

(17) No person is eligible for election as a member of the Board of Management or any local board unless he is a resident of the ward for which he is nominated and qualified to vote at municipal elections therein.

Nominations

(18) Nominations for the first election of the members of the Board of Management or for any local board for any ward shall be held at the time and in the manner directed by the Municipal Board and each year thereafter the nominations shall be held at the same time and place as the nominations of municipal candidates for the municipality in which the ward is situated.

Ballot
papers

(19) A separate set of ballot papers shall be prepared by the clerk of the municipality for each of the wards or polling subdivisions containing the names of the candidates for the Board of Management and any local board in the same form as those used for councillors and aldermen.

Duties of
returning
officer at
close of poll

(20) At the close of the poll in each municipality, the returning officer thereof shall transmit to the returning officer of the area a sealed return showing the number of ballots cast for each of the candidates for election to the Board of Management and any local board and not later than 4 o'clock in the afternoon of the third day following the last of such elections the returning officer of the area shall make up from the returns so received by him the total number of votes cast for each candidate and publicly declare the result of the election, and he shall thereupon declare in writing over his signature the name of each person so elected and shall send by prepaid post a copy of such certificate to each candidate.

Vacancies

(21) Where the office of a member of the Board of Management becomes vacant from any cause, the remaining members shall at the first meeting after the vacancy occurs appoint a qualified person, resident in the ward from which the member so vacating his seat was elected, to fill the vacancy for the remaining part of the term for which his predecessor was elected.

Meetings

(22) The first meeting of the Board of Management shall be held at the time and place fixed by the order of the Municipal Board and each year thereafter the first meeting of the Board shall be held not later than the second Monday in January and the day and the hour for holding the meeting shall be fixed by by-law.

Election of
chairman

(23) The secretary-treasurer shall preside at the election of the chairman or if there is no secretary-treasurer or in his absence the members present shall choose one of themselves to preside at such election and the member so chosen may vote as a member.

(24) In case of an equality of votes at the election of the chairman, the member who is assessed for the largest sum on the last revised assessment roll has a second or casting vote. Idem

(25) The chairman of the Board of Management shall be deemed to be and has all the rights, powers, privileges, duties and authority of the head of a council and municipality and a mayor or reeve of a city, town, village or township and the chairman of a local board as designated by the Municipal Board. Powers and duties of chairman

(26) The Board of Management shall appoint a vice-chairman who, during the absence of the chairman or if the office is vacant, has all the rights, powers, privileges, duties and authority of the chairman. Vice-chairman

(27) A majority of the members constituting the Board is a quorum. Quorum

(28) The area is a local municipality for the purposes for which the area was created with the status of a city, town, village or township as is designated by the Municipal Board. Status of area

(29) The Board of Management is a municipal council for the administration and management of the purposes for which the area was created and is a local board as defined in *The Department of Municipal Affairs Act* for such purposes as are designated by the Municipal Board, except school boards, library boards, boards of commissioners of police, planning boards, boards of health and health units. Status of Board of Management
R.S.O. 1970, c. 118

(30) The powers vested in the Board of Management under this section shall not be exercised by the councils of the local municipalities in the area or by the council of the county, if any, in which the area is situated and the county levy, if any, shall not include a levy upon the rateable property in the area for any of the purposes for which the area was created. R.S.O. 1960, c. 249, s. 24, (1-30). Board of Management supreme

(31) Every board created or amalgamated for school purposes in the area has the status of a public school board, separate school board, board of education, secondary school board, or township school area board as is designated by the Municipal Board, and every such board is a corporation by the name of The Public School Board, or The Separate School Board, or The Board of Education, or The Secondary School Board, or The Public School Board of the Township School Area, of The Inter-Urban Area of, as the case may be, or such other designation as the Municipal Board by order or school board by by-law may provide, and the provisions of the respective school Acts governing such boards apply *mutatis mutandis* to such boards, except that each board shall be composed of one member for each ward elected for a term of two years at the time and in the manner herein provided by persons entitled to vote as public school supporters or separate school supporters, as the case may be. School boards

Exception

(32) Notwithstanding subsection 31, the Municipal Board may provide that a secondary school board created under this section shall be composed of one or more members representing each local municipality in the area to be appointed by the council of each such municipality at the first meeting in each year and the members so appointed, with such additional members as are authorized by *The Secondary Schools and Boards of Education Act*, form such secondary school board.

R.S.O. 1970,
c. 425

Roll to be
transmitted
and
produced

(33) When its assessment roll has been finally revised and corrected, the clerk of each municipality within the area shall within ninety days transmit to the secretary-treasurer of the area a summarized statement of the contents of the roll showing the population and the total assessment of each of the various classes of property liable to assessment and the total business assessment and the total assessment for public school, separate school and general purposes.

Equalization
of
assessment

(34) The Board of Management shall equalize the real property assessments of the municipalities within the area for public school, separate school, board of education, and secondary school purposes, as the case may be, and for such other purposes as are designated by the Municipal Board in a similar manner as is done in the case of an equalization for county purposes and similar procedures and rights apply thereto as in the case of a county equalization and for such purposes every municipality or public or separate school board thereof in the area shall be considered a municipality within a county, and for such purposes the Board of Management may with the approval of the Department appoint assessors who shall have the same powers and duties as an assessment commissioner. R.S.O. 1960, c. 249, s. 24 (31-34), *amended*.

Basis for
raising
required
sums

(35) The assessment of real property and business assessments as equalized in each municipality for the preceding year is the basis upon which any rate or sums required to be raised for each of the purposes of the area shall be apportioned.

Rates

(36) The Board of Management shall prepare and adopt estimates of all sums required during the year for the purposes of the area including the rates imposed by any separate school board and the sums required to be provided by the Board of Management for any board, commission or other body, and such estimates shall set forth the estimated revenue and expenditures in such form as the Department may prescribe and the Board of Management shall apportion the amounts required to be raised for each purpose among the municipalities within the area and the secretary-treasurer shall forthwith after such apportionment has been made certify to the clerk of each local municipality in the area the amount or rate to be levied thereon for each purpose for

the current year and the sum shall be collected and levied upon the whole rateable property within such municipality according to the last revised assessment roll, except that the amounts or rates to be levied for public school or separate school purposes shall be collected and levied upon the whole rateable property of public school supporters or separate school supporters, as the case may be, and the total of such amounts shall be collected and paid over to the Board of Management at the time and in the manner required by the Board.

(37) The Board of Management may by by-law require that the estimates for the current year for every board, commission or other body created for any of the purposes of the area and for which the Board of Management is by law required to raise or provide money shall be submitted to the Board of Management on or before the 1st day of March in each year and that such estimates shall be in the form and give the particulars that the by-law prescribes. Estimates

(38) The Board of Management in apportioning any rate or sums for any of the purposes of subsection 1 of section 305 shall add to the amount of the equalized assessment of each local municipality within the area any amounts exempted therefrom by reason of a fixed assessment or a partial or total exemption from assessment, except as provided in section 3 of *The Assessment Act*. Rates to be levied on full values
R.S.O. 1970, c. 32

(39) In raising money for any of the purposes of the Board of Management by way of debentures, the assent of the electors is not required and, for current borrowing, section 332 applies *mutatis mutandis*. Borrowing powers

(40) The Municipal Board may make such orders in respect of any matter not specifically provided for in this section as it considers expedient in connection with the area and every such order is valid and binding upon all municipalities and local boards affected thereby. Power to make additional orders, etc.

(41) The powers conferred upon the Municipal Board by this section may be exercised at any time notwithstanding any other provision in this Act or any other special or general Act and, in the event of conflict between the provisions of this section and the other provisions of this Act or any other special or general Act, the provisions of this section prevail except that nothing herein affects or limits the powers of a separate school board with respect to the imposing, levying and collecting of school rates, the borrowing of money for school purposes and the making of instruments for the security of payment thereof. Conflict

(42) Any area created in unorganized territory is subject to Part III of *The Department of Municipal Affairs Act*. R.S.O. 1960, c. 249, s. 24. Unorganized territory
R.S.O. 1970, c. 118

DISSOLUTIONS

Interpre-
tation

25.—(1) In this section, “municipality” means local municipality, and includes,

- (a) a police village;
- (b) an elementary school board having jurisdiction only in territory without municipal organization;
- (c) a secondary school board having jurisdiction only in territory without municipal organization;
- (d) road commissioners under *The Statute Labour Act* having jurisdiction only in territory without municipal organization;
- (e) a board of management established under section 24.

R.S.O. 1970,
c. 445Dissolution
of municipi-
pality, etc.

- (2) Upon the application, authorized by by-law,
 - (a) of a municipality to have the municipality dissolved; or
 - (b) of a municipality to have dissolved one of its local boards that it is not required by law to have and for the dissolution of which no provision is made by law; or
 - (c) of a municipality that adjoins territory without municipal organization for the detachment from the municipality of any part or parts thereof,

the Municipal Board may by order on such terms as it may consider expedient,

- (d) dissolve the municipality; or
- (e) dissolve the local board; or
- (f) detach from the municipality such part or parts or any larger or smaller part or parts,

as the case may be, and the order shall take effect on the day named therein.

Dissolution
of board of
management

(3) An application for the dissolution of a board of management established under section 24 may be made under subsection 2 by the board of management or by any municipality within the area for which the board of management was established.

Application
by Minister

(4) The Lieutenant Governor in Council may authorize the Minister of Municipal Affairs to apply to the Municipal Board for any purposes mentioned in clause *a*, *b* or *c* of subsection 2, and in such case the Municipal Board has the same powers as if the application had been made under subsection 2 by the municipality concerned.

Assent of
electors

(5) The Municipal Board, before proceeding with an application under subsection 2, may require the assent of the electors of the municipality.

(6) The Municipal Board, before making an order under subsection 2, shall hold a public hearing, after such notice thereof has been given as the Board may direct which shall in every case include a written notice to the Minister of Health, for the purpose of inquiring into the merits of the application and of hearing any objections that any person may desire to bring to the attention of the Board. R.S.O. 1960, c. 249, s. 25 (1-6). Public hearing

(7) The Municipal Board may by any order under subsection 2 or by subsequent order or orders, Powers of Board

- (a) in the case of an application under clause *a* of subsection 2, declare that the municipality dissolved shall be an improvement district or that the lands comprising the municipality or any part or parts thereof shall be annexed to another municipality or municipalities or that the lands comprising the municipality or any part or parts thereof shall become territory without municipal organization;
- (b) in the case of an application under clause *b* of subsection 2, provide for the disposition of the assets and liabilities of the local board in such manner as may be agreed upon or, in default of agreement, as the Board considers equitable;
- (c) in the case of an application under clause *c* of subsection 2, declare that the lands detached from the applicant municipality shall be an improvement district or that such lands or any part or parts thereof shall be annexed to another municipality or municipalities or that such lands or any part or parts thereof shall become territory without municipal organization;
- (d) make all such adjustments of assets and liabilities as between any municipalities, including counties, affected by any such order as may be agreed upon or, in default of agreement, as the Board considers equitable;
- (e) define the municipality dissolved or the lands detached as a special area and adjust the rights, claims, liabilities and obligations of the ratepayers of such area and provide the extent to and the manner in which the liabilities of the municipality dissolved or the lands detached shall be discharged by the imposition of rates upon the rateable property in such area or otherwise;
- (f) upon the dissolution of a police village, provide for the maintenance of any works or services previously provided within the police village by the trustees of the police village, pursuant to the provisions of any Act, upon such terms and conditions as it considers necessary or desirable, and subsections 12, 13 and 14 of section 14 apply *mutatis mutandis*;

R.S.O. 1970,
c. 354

- (g) upon the dissolution of a police village, provide for the continued operation of any local hydro-electric system previously established by the trustees of the police village under section 67 of *The Power Commission Act* and for the transfer to the council of the township of the control and management of works established for the distribution of power in the area of such police village;

R.S.O. 1970,
c. 323

- (h) appoint one or more referees, who shall have all the powers mentioned in section 52 of *The Ontario Municipal Board Act*, to inquire into and report to the Board upon the disposition and adjustment of assets and liabilities and of the rights, claims, liabilities and obligations referred to in clauses *b*, *d* and *e*, or any of them, the report to be filed with the Board within such time as the Board may from time to time allow, and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer it back to the referee or referees for further consideration, and the order of the Board adopting, varying or amending the report is final and conclusive and not open to question or appeal and is binding upon all municipalities and local boards affected thereby;

- (i) fix the remuneration and expenses of the referee or referees and declare by whom and in what manner the remuneration and expenses shall be paid;

- (j) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the dissolution or detachment provided for in the order. R.S.O. 1960, c. 249, s. 25 (7); 1965, c. 77, s. 5.

Rules, etc.

- (8) The Municipal Board may make such rules and regulations and issue such orders and directions with respect to any matter not specifically provided for in this section as it considers necessary or desirable in connection with the dissolution or detachment. R.S.O. 1960, c. 249, s. 25 (8).

Notice by
Minister
to Municipal Board
to stay
proceedings

26. When the Minister institutes an inquiry into the structure, organization and methods of operation of one or more municipalities, he may give notice to the Municipal Board of such inquiry and that in his opinion any application or applications made under this Part should be deferred until the inquiry has been completed and considered, and thereupon all proceedings in any such application are stayed until he gives notice to the Municipal Board that they may be continued. 1966, c. 93, s. 3.

PART II

MUNICIPAL COUNCILS—HOW COMPOSED

COUNTIES

27.—(1) The council of a county shall be composed of the reeves and deputy reeves of the towns, not being separated towns, and of the villages and townships in the county.

County
councils

(2) Where a town not being a separated town, or a village, or a township in a county, has more than 2,000 and not more than 3,000 municipal electors, the reeve as a member of the county council has an additional vote and, where it has more than 3,000 municipal electors, the reeve and the deputy reeve as members of the county council each has an additional vote.

Vote of
reeve and
deputy reeve
in towns,
villages and
townships

(3) Subsections 2, 3 and 4 of section 34 apply to this section. R.S.O. 1960, c. 249, s. 26.

Application
of s. 34
subss. 2-4

CITIES

28.—(1) The council of a city shall be composed of a mayor, the members of the board of control if the city has such a board, and,

Councils
of cities,
how com-
posed

- (a) three aldermen for each ward; or
- (b) where the council by by-law so provides, two aldermen for each ward; or
- (c) in the case of a city having a population of not more than 15,000, where the council by by-law so provides, one alderman for every 1,000 of the population up to but not exceeding the maximum number provided by by-law.

(2) In the case provided for by clause *c* of subsection 1, or where the council of a city having a population of more than 15,000 by by-law so provides, the aldermen shall be elected by general vote, and in the latter case the number of aldermen shall be the same as if they were elected by wards.

By-law for
election by
general
vote

(3) A by-law for the purposes mentioned in clause *b* or *c* of subsection 1 shall not be repealed until at least two annual or biennial elections, as the case may be, have been held under it, and a by-law under subsection 2 shall not be repealed until at least five annual or three biennial elections, as the case may be, have been held under it.

Repeal of
by-law

(4) A by-law for any of the purposes mentioned in subsections 1 and 2 and a by-law repealing any such by-law shall be passed not later in the year than the 1st day of November and shall not be passed unless it has received the assent of the municipal electors.

When and
how by-law
to be passed

When by-law to take effect

(5) Every such by-law including a repealing by-law shall take effect at and for the purposes of the municipal election next after the passing of it.

Submission of by-law on petition of electors

(6) Subject to subsection 3, where the petition of at least one-fifth of the municipal electors is presented on or before the 1st day of November in any year, praying for the passing of a by-law repealing a by-law for the purpose mentioned in clause *c* of subsection 1, or where a petition of not less than 400 electors is presented praying for the passing of a by-law for the purpose mentioned in subsection 2, or for the repeal of a by-law passed under that subsection, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing municipal election and if the voting is in favour of the change shall without delay pass a by-law in accordance with the prayer of the petition. R.S.O. 1960, c. 249, s. 27.

TOWNS

Councils of towns in unorganized territory

29.—(1) The council of a town in unorganized territory shall be composed of a mayor and six councillors to be elected by general vote or, where the council so provides, the council shall consist of a mayor and four councillors to be elected by general vote.

Councils of towns over 5,000

(2) If the town has a population of not less than 5,000, the council may provide that the council shall be composed of a mayor and nine councillors, or a mayor and seven councillors, to be elected by general vote.

Election by wards

(3) Where a town in unorganized territory has been divided into wards, the council may provide that the council shall be composed of a mayor and one councillor for each ward, and the remaining councillors to complete the full number of four, six, seven or nine, as the case may be, to be elected by general vote. R.S.O. 1960, c. 249, s. 28.

Councils of towns of more than 5,000 in counties

30.—(1) Where a town in a county has a population of more than 5,000 and less than five wards, the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and three councillors for each ward, but, if there are five or more wards, the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and two councillors for each ward.

Alternate powers

(2) Where the town has less than five wards, the council may provide that the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and two councillors for each ward or that the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and six councillors, or a mayor, a reeve, a deputy reeve where so entitled, and four councillors, to be elected by general vote, and, where the town has five or more wards, the council may provide that the council shall be composed of a

mayor, a reeve, a deputy reeve where so entitled, and one councillor for each ward.

(3) Where the town has a population of not more than 5,000, the council shall be composed of a mayor, a reeve, a deputy reeve where so entitled, and, Case of town of not more than 5,000

- (a) six councillors to be elected by general vote or, where the council so provides, four councillors to be elected by general vote; or
- (b) where the council so provides, one councillor for each ward and the remaining councillors to complete the full number of four or six, as the case may be, to be elected by general vote.

(4) A by-law passed under section 29 or under subsection 2 or 3 of this section shall not be repealed until two annual or biennial elections, as the case may be, have been held under it. Repeal of by-law

(5) A by-law passed under section 29 or under subsection 2 or 3 of this section, and a by-law repealing any such by-law, shall be passed not later in the year than the 1st day of November, and shall not be passed unless it has received the assent of the municipal electors. Time for passing of by-laws; assent of electors

(6) Every such by-law, including a repealing by-law, shall take effect at and for the purposes of the municipal election next after its passing. When by-law to take effect

(7) Subject to subsection 4, where a petition of not less than one-fifth of the municipal electors is presented on or before the 1st day of November in any year praying for the passing of a by-law for any of the purposes mentioned in this section or for repealing any such by-law, except a by-law reducing the number of councillors to two for each ward, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing municipal election and if the voting is in favour of the proposed change shall without delay pass a by-law in accordance with the prayer of the petition. Submission of questions on petition of electors

(8) Subject to subsection 4, where a by-law has been passed for reducing the number of councillors to two for each ward, the council, upon the petition of not less than 100 resident municipal electors, presented not later in the year than the 1st day of November, shall submit the question of repealing the by-law to a vote of the electors at the next ensuing municipal election and if the voting is in favour of the repeal shall without delay pass a by-law in accordance with the prayer of the petition. R.S.O. 1960, c. 249, s. 29. Submission of question of repeal

31. For the purposes of sections 28 to 30, the population shall be determined by the latest census made by the assessor under *The Assessment Act*. R.S.O. 1960, c. 249, s. 30. Population R.S.O. 1970, c. 32

VILLAGES AND TOWNSHIPS

Councils of
villages and
townships
in counties

32.—(1) In a county, the council of a village and the council of a township shall consist of a reeve, a deputy reeve where so entitled, and a sufficient number of councillors to make up five in all, and they shall all be elected by general vote. R.S.O. 1960, c. 249, s. 31 (1).

Villages
and town-
ships with
population
of 10,000
or more

(2) If a village or township in a county has a population of not less than 10,000, the council may by by-law provide that the council shall be composed of a reeve, a deputy reeve where so entitled, and a sufficient number of councillors to make up seven in all to be elected by general vote.

Time for
passing
by-law

(3) A by-law for the purpose mentioned in subsection 2 and a by-law repealing any such by-law shall not be passed later in the year than the 1st day of November and shall take effect at and for the purpose of the municipal election next after the passing of it. 1966, c. 93, s. 4.

Wards

(4) Where a village or township is divided into wards, the council, notwithstanding any general or special Act, shall be composed of a reeve to be elected by general vote, and a deputy reeve and a councillor to be elected for each ward and, where there are less than five wards, the Municipal Board may by order provide for an additional councillor for any ward having a population greater than 10,000.

County
council

(5) Notwithstanding any other provision, no village or township shall have greater representation upon the county council than the reeve and one deputy reeve to be appointed by the council.

Alternative
composition
where wards

(6) The council of a village or township divided into wards may by by-law provide that thereafter the council shall be composed of a reeve and deputy reeve, each to be elected by general vote, and a councillor to be elected for each ward and where there are less than five wards the by-law may also provide for an additional councillor to be elected for any ward having a population greater than 10,000.

Repeal

(7) A by-law passed under subsection 6 shall not be repealed until at least two annual or biennial elections, as the case may be, have been held under it.

Time for
passing,
assent of
electors

(8) A by-law for the purpose mentioned in subsection 6 and a by-law repealing any such by-law shall not be passed later in the year than the 1st day of November and shall not be passed unless it has received the assent of the municipal electors.

Where assent
unnecessary

(9) Notwithstanding subsection 8, a by-law for the purpose mentioned in subsection 6 may be passed without the assent of the municipal electors if a by-law or a question for the division of the municipality into wards has received the assent of the municipal electors.

(10) Every such by-law, including a repealing by-law, shall take effect at and for the purpose of the municipal election next after the passing of it. R.S.O. 1960, c. 249, s. 31 (2-8). Effective date

33.—(1) In unorganized territory, the council of a village and council of a township shall consist of a reeve and four councillors to be elected by general vote. Councils of villages and townships in unorganized territory

(2) If the village or township has a population of not less than 2,000, the council may provide that the council shall consist of a reeve and six councillors, a reeve and seven councillors or a reeve and nine councillors. 1966, c. 93, s. 5, *part*. Where population of 2,000 or more

(3) If the village or township has been divided into wards, the council may provide that the council shall consist of a reeve and one councillor for each ward and the remaining councillors to complete the full number of four, six, seven or nine, as the case may be, to be elected by general vote. 1966, c. 93, s. 5, *part*; 1967, c. 55, s. 3. Election by wards

TOWNS, VILLAGES AND TOWNSHIPS

34.—(1) Every town not being a separated town, village and township in a county is entitled where it has more than 1,000 municipal electors to a deputy reeve. Deputy reeves

(2) The number of municipal electors shall be determined by the last revised voters' list but, in counting the names, the name of the same person shall not be counted more than once, and the name of a person who is a municipal elector by reason of being the wife or husband of the person so rated or entitled to be rated for land as mentioned in clause *d* of subsection 1 of section 38 or who is entered on the list as a farmer's daughter or farmer's sister or farmer's son's wife shall not be counted. Number of electors, how determined

(3) It is the duty of the clerk of any such municipality having less than 10,000 municipal electors according to the last revised voters' list at least six days before the day fixed for holding the meeting for the nomination of candidates for membership in the council to send by registered mail to the clerk of the county a certificate under his hand and the seal of the corporation, stating the total number of municipal electors according to the last revised voters' list who are to be counted under subsection 2, and to post up in his office a duplicate of such certificate. Certificate of clerk

(4) If the clerk fails to send such certificate within the prescribed time, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 and, if he certifies to a larger number of municipal electors than should be counted under subsection 2, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 249, s. 33. Offence

QUALIFICATIONS

Qualification
of
candidates

35.—(1) Every person is qualified to be elected a member of the council of a local municipality who,

- (a) is a householder residing in the municipality, or is rated on the last revised assessment roll of the municipality for land held in his own right for an amount sufficient to entitle him to be entered on the voters' list and resides in or within five miles of the municipality, or is the wife or husband of such a householder and who resides in or within five miles of the municipality;
- (b) is entered on the last revised voters' list as qualified to vote at municipal elections;
- (c) is a British subject;
- (d) is of the full age of twenty-one years; and
- (e) is not disqualified under this or any other Act. R.S.O. 1960, c. 249, s. 34 (1); 1961-62, c. 86, s. 2; 1962-63, c. 87, s. 2; 1968, c. 76, s. 5.

Rating for
land

(2) The rating for land shall be in respect of a freehold or leasehold, legal or equitable, or partly of each.

Interpre-
tation

(3) "Householder" means the person who occupies and is assessed as owner or tenant of a dwelling or apartment house or part of a dwelling or apartment house separately occupied as a dwelling.

Qualification
where land
annexed to
urban
municipal-
ity

(4) Where territory has been annexed to an urban municipality, until an assessment roll for the municipality, including such territory, has been made and revised, it is sufficient for the purposes of this section if the assessment is upon the last revised assessment roll of the municipality in which the territory was situate before its annexation, and for a sufficient amount to qualify him for election to the council of that municipality.

Qualification
in new
township

(5) Where the inhabitants of a locality in unorganized territory have become incorporated as a township or a union of townships, the only qualification necessary at the first election is that the person is of the full age of twenty-one years, a British subject and a householder resident in the municipality. R.S.O. 1960, c. 249, s. 34 (2-5).

DISQUALIFICATION

Persons
disqualified
from being
members of
a council

36.—(1) The following are not eligible to be elected a member of a council or entitled to sit or vote therein;

- (a) a judge of any court;
- (b) a jailer or a keeper of a lock-up;
- (c) a sheriff, deputy sheriff or sheriff's bailiff;
- (d) a chief of police of a city or town;

- (e) a collector of taxes, a treasurer, a clerk, or any other officer, employee or servant of the corporation of a municipality;
- (f) a trustee of a police village unless he has before the opening of the nomination meeting filed his resignation with the township clerk;
- (g) a person, other than the head of the council or a member of council appointed under section 213 to act in place of the head of the council, who is a member of a board or commission appointed or elected for the construction, management or control of a transportation system that is owned by, or leased to, or controlled by a municipal corporation, or by trustees, or by any board or commission acting for or on behalf of such corporation, unless before the opening of the nomination meeting he has filed his resignation with the clerk of the municipality, and this clause has effect notwithstanding any general or special Act or any by-law of a municipal corporation;
- (h) a person other than the head of the council who is an appointed or elected member of a board, commission or other body to which the construction, management or control of a public utility belonging to the corporation of the municipality is entrusted under *The Power Commission Act*, *The Public Utilities Act*, or any special Act unless before the opening of the nomination meeting he has filed his resignation with the clerk of the municipality;
- (i) a clerk or bailiff of a small claims court;
- (j) a Crown attorney or a clerk of the peace;
- (k) a registrar or a deputy registrar of deeds;
- (l) a master of titles;
- (m) a member of a board of education or of a public, separate or secondary school board, whose term of office has at least two months to run after the day on which the nomination meeting for a new election is to be held, unless before the opening of the nomination meeting he has filed his resignation with the secretary of the board;
- (n) a provincial judge;
- (o) a clerk of a county or district court;
- (p) a deputy clerk of the Crown or a local registrar;
- (q) a person having himself or by or with or through another an interest in any contract with the corporation or with any commission or person acting for the corporation or

R.S.O. 1970,
cc. 354, 390

in any contract for the supply of goods or materials to a contractor for work for which the corporation pays or is liable directly or indirectly to pay, or which is subject to the control or supervision of the council or of an officer of the corporation, or who has an unsatisfied claim for such goods or materials:

- (i) "contract" in this clause includes a contract, other than a teacher's contract, with a public or secondary school board or a board of education;
- (r) a person who, either himself or by or with or through another, has any claim, action or proceeding against the corporation, but this clause does not apply with respect to any moneys paid or payable to a member of a council under section 205, 211, 388, 389, 391 or 393 or under section 9 of *The Planning Act* or with respect to assessment appeals under *The Assessment Act* or *The Local Improvement Act*;
- (s) a person who, either himself or by or with or through another, is counsel or solicitor in the prosecution of any claim, action or proceeding against the corporation or in opposing or defending any claim, action or proceeding by the corporation, but this clause does not apply with respect to assessment appeals under *The Assessment Act* or *The Local Improvement Act*;
- (t) an owner or tenant against the land in respect of which he qualifies there are at the time of the opening of the nomination meeting any taxes of a preceding year or years overdue and unpaid, but this clause does not apply to a tenant of land where the taxes in respect of the land are, under the terms of tenancy, payable by the owner of the land and the rental therefor is not overdue and unpaid at the time of the opening of the nomination meeting;
- (u) a tenant who at the time of the opening of the nomination meeting owes more than three months rent upon the property in respect of which he qualifies;
- (v) a person who is an undischarged bankrupt or insolvent within the meaning of any bankruptcy or insolvency Act in force in Ontario;
- (w) a person whose taxes in respect of an assessment for business at the time of the opening of the nomination meeting are overdue and unpaid. R.S.O. 1960, c. 249, s. 35 (1); 1961-62, c. 86, s. 3 (1); 1962-63, c. 87, s. 3; 1965, c. 77, s. 6; 1967, c. 55, s. 4 (1); 1968-69, c. 74, s. 3, *amended*.

(2) In any municipality in which under this or any special Act members of council are elected for a term of two or more years, no person who is a member of the council and whose term of office has at least two months to run after the day on which the nomination meeting for the next ensuing municipal election is to be held is eligible to be nominated for membership in the council in any other office unless he has at least ten days before the day of nomination filed his resignation from the office that he then holds with the clerk of the municipality, and the clerk shall not place on the ballot paper the name of any such person as a candidate who fails to file such resignation within the time aforesaid. R.S.O. 1960, c. 249, s. 35 (2).

Ineligibility of member whose term, of office has not expired to qualify for another office unless he resigns his present office

(3) Subsection 1 does not apply to a person by reason only,

Disqualification not to apply in certain cases

- (a) of his being a shareholder in an incorporated company having dealings or a contract with the municipal corporation, unless such person is a director, manager, secretary, treasurer, secretary-treasurer or agent or has a controlling interest in such incorporated company and, for the purpose of determining a controlling interest under this clause, when married persons are living together, the interest of one spouse, if known to the other, is deemed to be also an interest of the other spouse;
- (b) of his being a lessee of the corporation for a term of twenty-one years or upwards of any property of the corporation;
- (c) that part of his property is exempt wholly or in part from taxation, whether such exemption is founded on an agreement with the corporation or on a by-law of the council;
- (d) of his being the proprietor of or otherwise interested in a newspaper or other periodical publication in which official advertisements or notices that appear in other newspapers or periodical publications are published by the council or for which the council is a subscriber or which is furnished to any department or officer of a corporation if the same are paid for at the usual rates, and he has not agreed with the corporation to do the whole or the principal part of its printing;
- (e) of his having been appointed under section 393 and paid for his services as commissioner, superintendent or overseer of any work, other than a highway, undertaken wholly or in part at the expense of the corporation;
- (f) of his being a consumer or taker of anything supplied by the corporation or any commission under *The Public Utilities Act* or of his having entered into a contract with the corporation or commission for the supply of it to him;

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- (g) of his having entered into an agreement of sale with a municipal housing commission;
- (h) while being a member of council, of his acting in the place and stead of the head of the council as a member of any board, commission or other body of which the head of the council is a member *ex officio* under any general or special Act;
- (i) of his purchasing or owning a debenture of the corporation;
- (j) of his being related by blood or marriage to a person employed by the corporation;
- (k) of his being entitled to or receiving a pension, retirement allowance, sick leave credit gratuity or any payment in respect of his employment or service with a municipality or local board, as defined in *The Department of Municipal Affairs Act*, from or under a contract with a municipality or a local board on or after his retirement from employment or service with the municipality or local board;
- (l) of his having entered into an agreement with the corporation in respect of the acquisition of land by the corporation for a road-widening or curve-adjustment or in a redevelopment area designated by the council with the approval of the Minister under subsection 2 of section 22 of *The Planning Act* or of his having any claim or proceeding against the corporation in respect of such acquisition of land;
- (m) of his having made a deposit with the corporation or with any local board thereof, the whole or part of which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other ratepayers. R.S.O. 1960, c. 249, s. 35 (3); 1960-61, c. 59, s. 3; 1961-62, c. 86, s. 3 (2); 1966, c. 93, s. 6; 1967, c. 55, s. 4 (2); 1968, c. 76, s. 6.

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c. 118

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c. 349

Persons not
to vote on
certain
questions

(4) A person being such a shareholder shall not vote on any question affecting the company or being such a lessee shall not vote on any question affecting his lease or his rights or liabilities thereunder, or being so exempt from taxation shall not vote on any question affecting the property so exempt, or being such a proprietor or otherwise interested in a newspaper or other periodical publication shall not vote on any question affecting his dealings with the corporation.

Resignation,
when to
vacate seat

(5) The filing of the resignation mentioned in clause *m* of subsection 1 renders vacant the seat of the member.

(6) Notwithstanding the provisions of clause *g* of subsection 1 and of section 42 of *The Public Utilities Act*, a member of a board or commission appointed or elected for the construction, management or control of a transportation system mentioned in the said clause *g* may be appointed or elected and be entitled to sit and vote as a member of a commission established under *The Power Commission Act*, *The Public Utilities Act* or any special Act for the management and control of a public utility. R.S.O. 1960, c. 249, s. 35 (4-6).

Appoint-
ments to
two com-
missions,
etc.

R.S.O. 1970,
cc. 390, 354

37. If a member of a council in his own name or in that of another and alone or jointly with another enters into a contract with or makes a purchase from or a sale to the corporation, the contract, purchase or sale as against the corporation is voidable at the instance of the municipality or a municipal elector thereof. R.S.O. 1960, c. 249, s. 36; 1966, c. 93, s. 7.

Contracts
by members
with corpora-
tion to be
voidable

PART III

MUNICIPAL ELECTIONS

WHO TO BE ENTERED ON VOTERS' LIST

38.—(1) Every person is entitled to be entered on the voters' list prepared under *The Voters' Lists Act* who is,

Qualifica-
tion to be
entered on
voters' list
R.S.O. 1970,
c. 485

- (a) of the full age of twenty-one years;
- (b) a British subject by birth or naturalization;
- (c) not disqualified under this Act or otherwise by law prohibited from voting; and
- (d) rated or entitled to be rated to the amount hereinafter mentioned on the last revised assessment roll of the local municipality for land held in his or her own right as owner or tenant or who is the wife or husband of the person so rated or entitled to be rated for land as owner or tenant and who resides in or within five miles of the municipality, or who is entered or was entitled to be entered on such roll as a farmer's son, farmer's daughter or farmer's sister or who is the wife of a person who is entered or was entitled to be entered on such roll as a farmer's son; or
- (e) in lieu of the qualification required by clause *d*, renting a building owned by and vested in The Hydro-Electric Power Commission of Ontario in respect of which a payment is made under subsection 2 of section 47, of *The Power Commission Act* in any year, the assessed value of which, when added to the assessed value of the land on

which it is located, amounts to a sum that would entitle such person to be rated on the last revised assessment roll as tenant if the land and building were owned or held by any other person, or who is the wife or husband of such person. R.S.O. 1960, c. 249, s. 37 (1); 1962-63, c. 87, s. 4.

Amount of
rating
necessary

(2) The rating for land shall be in respect of a freehold or leasehold, legal or equitable, or partly of each to an amount not less than,

- (a) in villages and townships, \$100;
- (b) in towns having a population not exceeding 3,000, \$200;
- (c) in towns having a population exceeding 3,000, \$300;
- (d) in cities, \$400.

Where
owner and
occupant
severally
rated

(3) If both the owner and the occupant are severally but not jointly rated, each shall be deemed to be rated.

Joint
tenancy

(4) If the rating of land owned or occupied by two or more persons jointly and not severally is sufficient, if equally divided among them, to give a qualification to all, each of them shall be deemed to be rated within the meaning of this section, and if such rating is insufficient to qualify all, so many of them shall be deemed to be rated within the meaning of this section as will result in whole numbers from a division of the minimum rating prescribed by subsection 2 into the total rating of the land, and in such case the persons who shall be deemed to be rated shall be named in a writing to be signed by all such joint owners or occupants and upon such nomination being filed with the clerk. R.S.O. 1960, c. 249, s. 37 (2-4).

Farmers'
sons,
daughters
and sisters
R.S.O. 1970,
c. 32

(5) A person not entitled under *The Assessment Act* to be entered on the last revised assessment roll as a farmer's son, or farmer's daughter, or a farmer's sister, by reason of not having resided on the farm as therein required, is entitled to be entered on the voters' list if he or she has the other qualifications a farmer's son, or a farmer's daughter, or a farmer's sister as prescribed by that Act and has resided on the farm of his or her father or mother or brother for the twelve months next preceding the date of the final revision of the assessment roll or for the twelve months next preceding the last day for making complaint to the judge under *The Voters' Lists Act*, and, where under the provisions hereof a farmer's son is entered on the list, his wife, if otherwise qualified, shall also be entered thereon. R.S.O. 1960, c. 249, s. 37 (5); 1968-69, c. 74, s. 4 (1).

R.S.O. 1970,
c. 485

Occasional
or tem-
porary
absence

(6) Occasional or temporary absence from the farm for a time or times not exceeding in the whole six of the twelve months does not disentitle a farmer's son, farmer's daughter or farmer's sister to be entered on the voters' list. R.S.O. 1960, c. 249, s. 37 (6).

(7) Where after the voters' list has been finally revised the clerk is satisfied that the name of a person entitled to be entered thereon under this section has by error been omitted therefrom, he may, if such person is entered on the last revised assessment roll, or has been added to the assessment roll under section 44 of *The Assessment Act*, and is not otherwise disqualified, issue a certificate (Form 10), authorizing the returning officer or proper deputy returning officer to enter the name of such person on the voters' list to entitle him to vote as if his name had been entered thereon before the list was revised. R.S.O. 1960, c. 249, s. 37 (7); 1968-69, c. 74, s. 4 (2).

Certificate
for voters
if names
omitted

R.S.O. 1970,
c. 32

(8) Where after the voters' list has been finally revised and the name of a person entitled to be entered thereon under this section has been omitted therefrom because such person is entered on the assessment roll as an alien, if such person produces for the inspection of the clerk his certificate of naturalization or other conclusive evidence that he is not an alien and is not otherwise disqualified, the clerk may issue a certificate (Form 10) authorizing the returning officer, the proper deputy returning officer or proper poll clerk to enter the name of such person on the voters' list to entitle him to vote as if his name had been entered thereon before the list was revised. R.S.O. 1960, c. 249, s. 37 (8).

Idem

(9) Where after the voters' list has been finally revised and the name of a person entitled to be entered thereon under this section by reason of being the wife or husband of a person rated or entitled to be rated for land as owner or tenant has been omitted therefrom, if the person rated or entitled to be rated for land as owner or tenant is entered on the last revised assessment roll or has been added to the assessment roll under section 44 of *The Assessment Act* and such wife or husband is not otherwise disqualified, the clerk shall issue a certificate (Form 10) authorizing the returning officer or proper deputy returning officer or proper poll clerk to enter the name of such wife or husband on the voters' list to entitle her or him to vote as if her or his name had been entered thereon before the list was revised. R.S.O. 1960, c. 249, s. 37 (9); 1967, c. 55, s. 5; 1968-69, c. 74, s. 4 (3).

Idem

RIGHT TO VOTE

39. Subject to section 41 and 42, every person whose name is entered on the proper voters' list is entitled to vote at a municipal election, except that in the case of the wife or husband of a tenant she or he is not entitled to vote unless the tenant is a resident of the municipality at the date of and has resided therein for one month next before the election and in the case of a farmer's son or farmer's daughter, or farmer's sister, he or she is a resident of the municipality at the date of the election. R.S.O. 1960, c. 249, s. 38.

Right to
vote at
municipal
elections

Qualifications not to be questioned at election except as to non-residence

40. Except as to the disqualification arising from not residing in the municipality at the time of the election in the case of a farmer's son, or farmer's daughter, or farmer's sister, or from the non-payment of taxes in the case of a voter whose name appears on the defaulters' list, or from the tenant not residing in the municipality at the date of and for one month next before the election in the case of a voter who is the husband or wife of the tenant, no question as to the qualifications of any person whose name is entered on the proper list of voters shall be raised at an election. R.S.O. 1960, c. 249, s. 39.

Persons in default for non-payment of taxes not to vote

41.—(1) No person whose name appears on the defaulters' list provided for by section 84 is entitled to vote in respect of real property in a municipality the council of which has passed a by-law under paragraph 52 of subsection 1 of section 354, unless at the time of tendering his vote he produces and leaves with the deputy returning officer a certificate from the treasurer, or the collector, showing that the taxes in respect of which the default was made have since been paid.

Certificate to be filed

(2) The deputy returning officer shall file the certificate and note the same on the defaulters' list. R.S.O. 1960, c. 249, s. 40.

Clerk may give a casting vote only

42. The clerk of the municipality is not entitled to vote except to give a casting vote as provided by section 122. R.S.O. 1960, c. 249, s. 41; 1965, c. 77, s. 7.

Where territory added to city, town or village, or a new city, town or village erected with added territory, and no voters' lists including such territory

43. Where territory has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory erected into a town, or a new town or village erected, and an election takes place before a voters' list including the names of the persons entitled to vote in such territory, or for the new town or village, is certified by the judge, all persons who would have been qualified as municipal electors if such addition had not been made or the new town or village erected are entitled to vote in the city, town or village at such election. R.S.O. 1960, c. 249, s. 42.

NOMINATION MEETING

Nomination and polling days

44.—(1) Except when otherwise provided by by-law passed in accordance with this Act, a meeting of the electors shall take place annually for the nomination of candidates for council and any local board or commission any members of which are required to be elected by ballot by the municipal electors at the hall of the municipality at noon on the last Monday in December and the day for polling shall be the first Monday in January next thereafter.

(2) When the last Monday in December is Christmas Day, the nomination meeting shall be held on the preceding Friday. When nomination day falls on Christmas

(3) The council may by by-law passed not later in the year than the 1st day of November fix the place and time of the nomination meeting and when the election for any office is by general vote the by-law may fix different places and times for the nomination meeting for the respective offices and when the election is by wards the by-law may fix the place and the time in each ward for the nomination meeting thereof, and the by-law remains in force from year to year until repealed. R.S.O. 1960, c. 249, s. 43. Power to fix place and hour of nomination meeting

45.—(1) The council may, not later in the year than the 1st day of November, fix the day for the meeting of electors for the nomination of candidates for council and for any local board or commission any members of which are to be elected by ballot by the electors and the day for the polling, provided that the days so fixed occur during the period from the 15th day of November to the 2nd day of January both inclusive, and are other than a Sunday or the 24th, 25th or 31st days of December, and that the day fixed for nominations is not less than seven days prior to the day fixed for polling, and the by-law remains in force from year to year until repealed, but no such by-law shall be amended or repealed after the 1st day of November in any year. Power to fix nomination and polling days

(2) The by-law shall fix the place and the time of the nomination meeting, and when the election is by general vote the by-law may fix different places and times for the nomination meeting for the respective offices, and when the election is by wards the by-law may fix the place and the time in each ward for the nomination meeting thereof. Time and place of nomination meetings

(3) Where a township adjoins an urban municipality, a place within the urban municipality may be designated as the place for holding the nomination meeting of the township. R.S.O. 1960, c. 249, s. 44. Where a township adjoins an urban municipality

46. The returning officer shall give notice of the nomination meeting, at least six days before the meeting, by publication in a newspaper having general circulation in the municipality and, in any township where there is not newspaper having general circulation, by posting notice thereof in at least two conspicuous places in the township, and the notice of the nomination meeting shall contain a list of offices that are or will become vacant and for which persons may be nominated. R.S.O. 1960, c. 249, s. 45; 1961-62, c. 86, s. 4. Notice

47.—(1) The nomination meeting shall be called to order by the returning officer at the place and time called for in the notice mentioned in section 46 and the candidates for each office shall be proposed and seconded *seriatim*. R.S.O. 1960, c. 249, s. 46 (1). Nomination meetings procedure

Notice to be displayed at place of meeting

(2) The returning officer shall, before calling the nomination meeting to order, prominently display in one or more locations in the place of the nomination meeting three or more copies of the notice required under section 46. 1961-62, c. 86, s. 5 (1).

Nomination papers

(3) Every nomination shall be in writing and state the name, residence and occupation of the candidate and the residence and occupation of the proposer and seconder and shall be signed by the proposer and seconder, both of whom shall be municipal electors and present, and shall be filed with the returning officer within one hour from the opening of the nomination meeting.

Effect of non-compliance with subs. 1 or 3

(4) Failure to comply with subsection 1 or 3 does not invalidate any nomination if it is received and acted upon by the returning officer without objection.

When proposed candidate absent

(5) Where a proposed candidate is not present, his nomination paper is not valid unless there is evidence satisfactory to the returning officer that he consents to be so nominated.

Posting up of candidates' names, etc.

(6) The name, residence and occupation of every person nominated for the respective offices shall be posted up as the nomination papers are filed.

Resignation of candidates

(7) At the nomination meeting or before 9 o'clock in the afternoon of the same day or within an hour of the close of the nomination meeting, whichever is the later, a candidate may resign in respect of one or more offices for which he is nominated by filing his resignation in writing with the returning officer or the clerk and in default he shall be deemed to be nominated for the office for which he was first nominated. R.S.O. 1960, c. 249, s. 46 (2-6).

Qualification of candidate

(8) When a candidate makes the filings mentioned in subsection 1 of section 49 by filing them with the returning officer or the clerk at the nomination meeting or before 9 o'clock in the afternoon of the same day or within an hour of the close of the nomination meeting, whichever is the later, he shall be deemed to have resigned as candidate for all other offices for which he was nominated. R.S.O. 1960, c. 249, s. 46 (7); 1961-62, c. 86, s. 5 (2).

Close of meeting

(9) The returning officer shall not close the nomination meeting until such business as he considers may properly be brought before it has been disposed of.

Furnishing of certificates

(10) The treasurer or collector of the municipality shall be in attendance at his office, or such place as is designated by the council, at least one hour prior to the holding of the nomination meeting for the purpose of furnishing the certificates referred to in subsection 1 of section 49. R.S.O. 1960, c. 249, s. 46 (8, 9).

Names of candidates to be posted up

48. Immediately following the nomination meeting, the returning officer shall post up in the office of the clerk the name, residence and occupation of every person nominated for the respective offices. R.S.O. 1960, c. 249, s. 47.

49.—(1) Before 9 o'clock in the afternoon of the day following the nomination meeting, provided that where such day is a holiday, not on such day but before noon on the following day, every candidate shall file in the office of the clerk, Declaration of qualification, etc.

- (a) a declaration of qualification (Form 1);
- (b) a certificate of the treasurer or collector that there were, at the time of the opening of the nomination meeting, no unpaid taxes for any preceding year against the land in respect of which he is qualifying or a statutory declaration to the same effect or a statutory declaration that he is qualifying in respect of land of which he is a tenant where the taxes in respect of the land are, under the terms of tenancy, payable by the owner of the land and that the rental therefor is not overdue and unpaid at the time of the opening of the nomination meeting; and
- (c) a certificate of the treasurer or collector that there were, at the time of the opening of the nomination meeting, no unpaid taxes against him in respect of an assessment for business or a statutory declaration to the same effect. R.S.O. 1960, s. 249, s. 48 (1); 1967, c. 55, s. 6; 1968, c. 76, s. 7.

(2) When a candidate is unable on account of illness or absence from the municipality to make the declaration or to file it within the prescribed time and it appears to the clerk that the candidate is qualified to be elected, any municipal elector may in lieu of such declaration file within the prescribed time a declaration stating that the inability exists and the nature of it and that he has reason to believe and does believe that the candidate possesses the qualifications prescribed for the office for which he has been nominated and that if elected he will accept the office. Absence or illness of candidates

(3) Any person who has made the filings required by subsection 1 may resign in writing signed by him and attested by a witness and delivered to the clerk within the time prescribed in subsection 1. Withdrawal of candidates

(4) The clerk's office shall remain open until 9 o'clock in the afternoon of the day following the nomination meeting, but if that day is a holiday it shall be closed, in which case it shall remain open the following day until noon, so that filings may be made. Clerk's office to remain open

(5) The clerk shall not place on the ballot paper the name of a candidate who fails to make the filings required by subsection 1 or on whose behalf a declaration has not been filed under subsection 2. R.S.O. 1960, c. 249, s. 48 (2-5). Failure to file

50. If no more candidates qualify for any office than the number to be elected, the clerk shall forthwith after the expiry of the time prescribed in section 49 declare the candidate or candidates duly elected. R.S.O. 1960, c. 249, s. 49. Acclamations

New
election

51. Where from any cause the requisite number of persons is not elected, the clerk shall cause a new election to be held as soon as practicable to fill the vacancies, and, until such election is held and the council, or sufficient members to exceed one-half thereof when complete, is elected, the council of the preceding year shall continue in office. R.S.O. 1960, c. 249, s. 50.

Election
in case of
death of
candidate

52. If, as a result of a candidate for any office dying after having qualified and before the close of the poll,

- (a) a person would be elected by acclamation to such office, the returning officer shall fix a new day for the nomination of candidates for such office and for polling, and the proceedings in such case shall, as nearly as practicable, be the same as for a new election; or
- (b) no person would be elected by acclamation to such office, the returning officer shall omit the name of the deceased candidate from the ballot and the election shall be proceeded with as if the deceased candidate had not been a candidate. 1961-62, c. 86, s. 6.

Term of
office

53. The members of a council shall hold office until their successors are elected and the new council is organized. R.S.O. 1960, c. 249, s. 52.

Two-year
term

54.—(1) Notwithstanding any general or special Act, the council of a local municipality may by by-law provide that thereafter the term of office of members of the council of the municipality shall be two years.

Biennial
elections,
staggered
system

- (2) A by-law passed under subsection 1 may provide,
 - (a) for biennial elections, in which case an election shall be held every two years; or
 - (b) for the staggered system of elections in which case an election shall be held every year.

Biennial
elections

(3) Where the by-law provides for biennial elections, all the members of council elected at the election next after the passing of the by-law and thereafter shall hold office for a two-year term.

Staggered
system

- (4) Where the by-law provides for the staggered system,
 - (a) the mayor, the reeve and the deputy reeve or deputy reeves elected at the election next after the passing of the by-law and thereafter shall hold office for a two-year term;
 - (b) the one-half of the members of the board of control, other than the mayor, receiving the highest number of votes at the election next after the passing of the by-law shall remain in office for a two-year term and the other

one-half shall remain in office for a one-year term and thereafter each member of the board of control shall be elected for a two-year term;

- (c) where other members of council are elected by general vote, the one-half, or in the case of an uneven number the majority, of such members receiving the highest number of votes at the election next after the passing of the by-law shall remain in office for a two-year term and the remainder shall remain in office for a one-year term and thereafter each member shall be elected for a two-year term;
- (d) where other members of council are elected by wards and two or more members other than a deputy reeve are elected in a ward, the one-half, or in the case of an uneven number the majority, of such members receiving the highest number of votes in the ward at the election next after the passing of the by-law shall remain in office for a two-year term, and the remainder shall remain in office for a one-year term, and thereafter each member shall be elected for a two-year term;
- (e) where other members of council are elected by wards and only one member other than a deputy reeve is elected in a ward, the member elected in the ward at the election next after the passing of the by-law shall remain in office for a one-year term and thereafter the member for the ward shall be elected for a two-year term.

(5) Where a by-law providing for the staggered system is passed and the full number of members of the board of control, or the full number of members to be elected by general vote, or the full number of members to be elected in a ward, are elected by acclamation at the election next after the passing of the by-law, the affected members so elected may at the first meeting of the new council agree as to which of them shall remain in office for a two-year term and which for a one-year term, and failing agreement the question shall be determined by lot cast by the clerk in the presence of the members, and in either case the result shall be entered in the minutes. Acclamations R.S.O. 1960, c. 249, s. 53 (1-5).

(6) Notwithstanding any general or special Act, the council of a local municipality may by by-law provide that thereafter the term of office of members of council of the municipality shall be three years, and all the members of council elected at the election next after the passing of the by-law and thereafter shall hold office for a three-year term. Triennial elections 1966, c. 93, s. 8 (1).

(7) Where a by-law has been or is passed under subsection 1 or 6, the council may by by-law passed not later in the year than the 1st day of November provide that every elected member of any local board as defined in *The Department of Municipal Affairs Act* Local boards R.S.O. 1970, c. 118

that is designated in the by-law shall, notwithstanding any general or special Act, be elected at the same time and hold office for the same term as the members of the council and, where the power conferred by this subsection is exercised in respect of any local board, all the elected members of such board in office when the by-law is passed cease to hold office at the end of the year in which the by-law is passed and subsection 3 or subsections 4 and 5 apply *mutatis mutandis*. R.S.O. 1960, c. 249, s. 53 (6); 1966, c. 93, s. 8 (2).

Time for
passing
by-law
under
subs. 7

(8) A by-law under subsection 7 shall be passed not later in the year than the 1st day of November and,

- (a) where the by-law under subsection 1 provides for biennial elections, shall be passed in the year in which the by-law under subsection 1 is passed or in any year in which a nomination meeting is to be held in respect of a biennial election;
- (b) where the by-law under subsection 1 provides for the staggered system of elections, may be passed in the year in which the by-law under subsection 1 is passed or in any subsequent year;
- (c) where the by-law under subsection 6 provides for triennial elections, shall be passed in the year in which the by-law under subsection 6 is passed or in any year in which a nomination meeting is to be held in respect of a triennial election. R.S.O. 1960, c. 249, s. 53 (7); 1966, c. 93, s. 8 (3).

Time for
passing
by-law,
assent of
electors

(9) A by-law under subsection 1 or 6 and a by-law repealing such a by-law shall be passed not later in the year than the 1st day of November and a by-law providing for the staggered system of elections shall not be passed unless it has received the assent of the electors. R.S.O. 1960, c. 249, s. 53 (8); 1966, c. 93, s. 8 (4).

Repeal

(10) Subject to section 55, where a by-law passed under subsection 1 or 6 is repealed, the members of the council and, where the power conferred by subsection 7 has been exercised, the elected members of any local board affected cease to hold office,

- (a) where the staggered system of elections has been provided, at the end of the two-year term of office, of the mayor, the reeve and the deputy reeve or deputy reeves;
- (b) where biennial or triennial elections have been provided, at the end of the two-year or three-year term of office, as the case may be,

and an election shall be held for the members of council and of such local board for the ensuing year and thereafter as if the by-law had not been passed under subsection 1 or 6. 1966, c. 93, s. 8 (5).

55.—(1) Notwithstanding any general or special Act, where a by-law providing for biennial elections is in effect in a municipality, the council of the municipality may by by-law repeal such by-law and provide for the staggered system of elections. Change from biennial to staggered system

(2) Where a by-law is passed under subsection 1, the members of the council and, where the power conferred by subsection 7 of section 54 has been exercised, the elected members of any local board affected cease to hold office at the end of the year in which the by-law is passed and subsections 4 and 5 of section 54 apply *mutatis mutandis*. Idem

(3) Notwithstanding any general or special Act, where a by-law providing for the staggered system of elections is in effect in a municipality, the council of the municipality may by by-law repeal such by-law and provide for biennial elections. Change from staggered to biennial system

(4) Where a by-law is passed under subsection 3, the members of the council and, where the power conferred by subsection 7 of section 54 has been exercised, the elected members of any local board affected cease to hold office at the end of the year in which the by-law is passed and subsection 3 of section 54 applies *mutatis mutandis*. Idem

(5) A by-law under subsection 1 or 3 shall be passed not later in the year than the 1st day of November and a by-law under subsection 1 shall not be passed unless it has received the assent of the electors. R.S.O. 1960, c. 249, s. 54. Time for passing of by-law, assent of electors

56. Subject to subsection 3 of section 45 and to section 64, the election shall be held in the municipality. R.S.O. 1960, c. 249, s. 55. Election to be held in municipality

57.—(1) The council of every local municipality in which the election is by wards or polling subdivisions shall from time to time appoint, Appointment of places for nomination and polling, deputy returning officers, etc.

- (a) the places for holding the nominations for each ward;
- (b) a returning officer to hold the nomination for each ward;
- (c) the places at which polls shall be opened if a poll is required;
- (d) a deputy returning officer and a poll clerk for each polling place.

(2) In a city having a population of not less than 100,000, the returning officers, deputy returning officers and poll clerks shall be appointed on the recommendation of the clerk, and such appointments shall be made at least one month before polling day, and as far as practicable the deputy returning officers and poll clerks shall be appointed for polling places in the subdivisions in which they reside. Election officers, how appointed in cities over 100,000

Poll clerk
refusing to
act, etc.

(3) If a poll clerk signifies to the returning officer in writing that he will not act, the returning officer shall appoint another person to act in his place.

Appoint-
ment of poll
clerk by
D.R.O.

(4) If a poll clerk does not attend at the opening of the poll, the deputy returning officer shall appoint another person to act in his place.

Election
assistants

(5) The council on the recommendation of the clerk may appoint such election assistants, not exceeding one for each polling place, as may be considered necessary to assist the deputy returning officers and poll clerks in the conduct of the election, and every such assistant shall be authorized in writing to enter, remain and assist in any polling place during any part of the time the poll is open and at the counting of the votes. R.S.O. 1960, c. 249, s. 56.

Clerk to be
returning
officer for
whole
municipality

58. Except as provided in section 472, the clerk shall be the returning officer for the whole municipality and, if a poll is required, the deputy returning officers shall make to him the returns for their respective wards or polling subdivisions. R.S.O. 1960, c. 249, s. 57.

Polling sub-
divisions
and places

59.—(1) By-laws may be passed by local municipalities for dividing the municipality or, where the municipality is divided into wards, the wards into two or more polling subdivisions and for establishing one or more polling places in each polling subdivision.

Polling
places to be
provided

(2) One or more polling places shall be provided for each polling subdivision in accordance with the convenience of the electors and, where there are two or more polling places in a polling subdivision, each polling place shall be designated by the numbers of the lots and concessions or the numbers and names of the streets that designate the properties in respect of which the electors are qualified to vote therein, or by the initial letters of the surnames of the electors who are qualified to vote therein, that is to say, A to M and N to Z, or as the case may be.

Boundaries
to be
defined

(3) Every polling subdivision shall have well-defined boundaries and shall be formed in the most convenient manner so that the number of electors entitled to vote in each polling place shall as nearly as possible equal but not exceed 450, determined by the last revised assessment roll.

Polling sub-
division to
be in one
electoral
district

(4) A polling subdivision shall not include territory in more than one electoral district.

Where
electors
exceed 450

(5) Where the clerk finds that the number of electors in a polling subdivision or polling place exceeds 450, he shall notify the council of such fact.

(6) Where the number of electors in a polling subdivision or polling place exceeds 450 or where the council is of opinion that the convenience of the electors will be promoted, the council may make a redivision of the polling subdivisions or polling places so that the polling subdivisions and polling places will conform with this section. Redivision

(7) When a polling subdivision or polling place is created or altered after the publication of the voters' lists, such creation or alteration shall not take effect until the next voters' lists are being prepared. When re-
division to
take effect

(8) The polling subdivisions shall be numbered consecutively and, where there is more than one polling place in a polling subdivision, such fact shall be indicated and a copy of the by-law by which they are established certified under the seal of the corporation and the hand of the clerk to be a true copy shall forthwith after the passing thereof be filed by the clerk in the office of the clerk of the peace for the county or district in which the municipality is situate. Subdivisions
to be
numbered

(9) Any five electors may at any time within two months after such filing appeal in respect of any polling subdivision to the judge of the county or district court of the county or district, who has power to amend the by-law so as to make it conform with the provisions of this section, and the procedure on the appeal shall be the same as on a motion to quash a by-law, except that no recognizance or deposit shall be required. Appeal

(10) An election is not irregular or void or voidable for the reason that a polling subdivision that contains more than the prescribed number of electors has not been divided. R.S.O. 1960, c. 249, s. 58. Election
not to be
voided if
subdivision
is wrongly
formed

60. By-laws may be passed by the councils of local municipalities for uniting for any purpose any two adjoining subdivisions and establishing one polling place therefor. R.S.O. 1960, c. 249, s. 59. Uniting
polling sub-
divisions

61.—(1) By-laws may be passed by the councils of local municipalities for providing that either, or both, public and separate schoolhouses within the municipality or a public building belonging to or controlled by the corporation and within the municipality shall be used for a polling place, or for polling places, for one or more polling subdivisions and any such schoolhouse or public building may be used, although it is not situated in the polling subdivision or polling subdivisions for which it is used. Using
public and
separate
schools for
polling
places

(2) Where a schoolhouse is so used, the council shall forthwith pay to the board having control of the schoolhouse a sum sufficient to cover any damage done to it and any expense for cleaning or otherwise caused by such use. Payment
therefor

Consent of
school
board

(3) No school shall be so used without the consent of the board having control of such school. R.S.O. 1960, c. 249, s. 60 (1-3).

Constable
may attend
each such
polling place

(4) The board of commissioners of police or the chief of police may cause one or more constables or clerks, as the case may be, to attend at each polling place in a schoolhouse or public building in which an election is being held there to perform the duties required by this Act of a constable appointed by the returning officer. R.S.O. 1960, c. 249, s. 60 (4); 1965, c. 77, s. 9, *amended*.

Polling
places

62. In any local municipality where difficulty arises in obtaining a suitable polling place in any polling subdivision, by-laws may be passed by the council of the municipality for providing a polling place for the polling subdivision in an adjoining polling subdivision. R.S.O. 1960, c. 249, s. 61.

In certain
cases clerk
may choose
polling place

63. Where a polling place has been appointed for holding an election, or for taking a vote in a local municipality, and it is afterwards found that the building cannot be obtained, or is unsuitable for the purpose, the clerk may select in lieu of it the nearest suitable building that is available, and he shall post up and keep posted up a notice on the building named in the by-law, and in two other conspicuous places nearby, directing the voters to the place so selected. R.S.O. 1960, c. 249, s. 62.

Place of
polling

64. The council of a township in which an urban municipality is situate may fix the place of polling for any adjoining subdivision within the limits of the urban municipality. R.S.O. 1960, c. 249, s. 63.

Returning
officer where
election not
by polling
subdivi-
sions

65.—(1) In a local municipality that is not divided into polling subdivisions, the clerk or such person as the council may appoint to act in the absence of the clerk through illness or otherwise shall be the returning officer for the nomination of candidates.

Polling
place

(2) The council shall from time to time appoint the place at which the poll shall be opened if a poll is required. R.S.O. 1960, c. 249, s. 64.

Place for
nomination
and polling
where coun-
cil fails to
fix places

66.—(1) Where a by-law to appoint the place for holding any meeting required to be held for the nomination of candidates is necessary and the council fails to pass it, the meeting shall be held at the place at which the nomination for the next preceding election was held.

Idem

(2) Where the council fails to appoint all or any of the places at which a poll is to be opened if a poll is required, as to such of them as are not appointed, the polls shall be opened at the place or places at which the polling took place at the next preceding election. R.S.O. 1960, c. 249, s. 65.

67.—(1) Where the returning officer for any ward notifies the clerk that he is unable or that he refuses to act or does not attend at the time and place appointed by the clerk to receive his instructions and nomination papers, or where a deputy returning officer does not attend at the time and place at which he is required by the clerk to attend to receive his ballot box, voters' lists and other election papers, the clerk shall appoint another person to act in his place.

Refusal or neglect of returning officer or deputy returning officer to perform his duties

(2) If at the time and place appointed for holding a nomination the returning officer does not attend to hold the nomination within fifteen minutes after the time appointed or if no returning officer has been appointed, the electors present at the place for holding the nomination may choose from amongst themselves a returning officer to hold the nomination.

When electors may choose returning officer

(3) If at the time and place appointed for holding the poll the deputy returning officer does not attend within one hour after the time appointed, the clerk shall appoint another person to act in his place and shall furnish him with a ballot box, voters' lists and other election papers.

Deputy returning officer not attending at poll

(4) In a city having a population of not less than 100,000, a deputy returning officer shall not be appointed unless a poll clerk has not been appointed or if appointed is not present, but the poll clerk shall act as deputy returning officer and he shall appoint some other person to be poll clerk.

When poll clerk to act as deputy

(5) If, during the polling, the returning officer or the deputy returning officer at a polling place becomes unable, through illness or other cause, to perform his duties, the poll clerk shall act in his place and shall perform all the duties of a returning officer or deputy returning officer, and may appoint some other person to act as poll clerk. R.S.O. 1960, c. 249, s. 66.

Where returning officer or deputy is unable to perform his duties

68.—(1) A returning officer and a deputy returning officer from the time he takes the oath of office until the day after the close of the election or of the voting on a by-law shall be a conservator of the peace and has all the powers of a justice of the peace.

Returning officers and deputy returning officers to be conservators of the peace

(2) A returning officer, a deputy returning officer or a justice of the peace may arrest or by a verbal order cause to be arrested and placed in the custody of a constable or of any other person a person whom he on reasonable and probable grounds believes to have contravened clause *g* of section 131, or who disturbs the peace and good order and may cause such person to be imprisoned under an order signed by him until an hour not later than the closing of the nomination, polling or voting, as the case may be, and all constables and persons present when required shall assist the returning officer, deputy returning officer or justice of the

Arrest of person disturbing peace

peace in the performance of his duties under this subsection. R.S.O. 1960, c. 249, s. 67.

Special constables may be sworn in

69. A returning officer, a deputy returning officer or a justice of the peace may appoint and swear in as many special constables to assist in the preservation of the peace and order as he may consider necessary, and any person liable to serve as constable and required by a returning officer, a deputy returning officer or a justice to be sworn in as a special constable, if he refuses to be sworn in or to serve, is guilty of an offence and on summary conviction is liable to a fine of \$20. R.S.O. 1960, c. 249, s. 68.

BALLOT BOXES

Ballot boxes to be furnished

70.—(1) Where a poll is required, the clerk shall procure as many ballot boxes as there are polling subdivisions.

How made

(2) The ballot boxes shall be made of durable material, provided with lock and key, and so constructed that the ballot papers can be deposited therein and cannot be withdrawn without unlocking the box.

Delivery to deputy returning officers

(3) At least two days before polling day, the clerk shall deliver a ballot box to every deputy returning officer.

Clerk to preserve boxes for future elections

(4) The ballot boxes, when returned to the clerk after the election, shall be preserved by him for use at future elections, and he shall have ready for use, at all times, as many ballot boxes as there are polling subdivisions.

Offence

(5) If the clerk fails to provide the ballot boxes, he is guilty of an offence and on summary conviction is liable to a fine of \$100 in respect of every ballot box that he fails to provide.

Deputy returning officers to procure boxes when not supplied

(6) A deputy returning officer who has not been provided with a ballot box within the time prescribed shall forthwith procure one to be made, and he may make a requisition upon the treasurer for payment of the cost of it, and the treasurer shall pay the cost to the deputy returning officer. R.S.O. 1960, c. 249, s. 69.

BALLOT PAPERS

Ballot papers to be printed

71. Where a poll is required, the clerk shall forthwith cause to be printed a sufficient number of ballot papers for the purposes of the election. R.S.O. 1960, c. 249, s. 70.

Ballot papers, where election is by wards

72.—(1) In cities and towns in which the aldermen or councillors are elected by wards, there shall be prepared one set of ballot papers for all the polling subdivisions containing the names of the candidates for mayor, another set for all the polling subdivisions containing the names of the candidates for reeve, or reeve and deputy reeves, and another set for each ward containing the names of the candidates for aldermen or councillors for the ward.

(2) In cities and towns where the aldermen or councillors are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballot papers containing the names of the candidates for mayor or mayor and reeve or mayor, reeve and deputy reeves, and another set containing the names of the candidates for aldermen or councillors.

where
aldermen or
councillors
elected by
general
vote

(3) In villages and townships, there shall be prepared one set of ballot papers containing the names of the candidates for reeve or reeve and deputy reeves and for councillors.

for town-
ships and
villages

(4) There shall also be separate sets of ballot papers for controllers and public utility commissioners.

for con-
trollers, etc.

(5) In a town, the council may by by-law provide that the ballot papers for mayor, reeve and deputy reeve shall be prepared in separate sets and, in a village or township, the council may by by-law provide that the ballot papers for reeve, deputy reeve and councillors shall be prepared in separate sets.

in towns,
villages and
townships

(6) A by-law for the purposes mentioned in subsection 5 shall be passed not later in the year than the 1st day of November and remains in force until repealed, and while in force the ballot papers (Form 3, 5 or 6) shall be varied accordingly. R.S.O. 1960, c. 249, s. 71.

When
by-law to
be passed

73.—(1) The ballot papers shall be according to Form 3, 5 or 6, and shall contain the names of the candidates arranged alphabetically in the order of their surnames or, if there are two or more candidates for the same office with the same surname, in the order of their given names.

Form of
ballot
papers

(2) In cities having a population of not less than 200,000, the ballot papers shall be according to Form 4 and shall contain the names of the candidates arranged as set forth in subsection 1.

Form of
ballot
papers
in certain
cities

(3) In any municipality, the form of any ballot paper may by by-law be varied by stating in respect of each office the number of candidates for such office for which the voters are entitled to vote. R.S.O. 1960, c. 249, s. 72.

Power to
vary

74.—(1) In place of using separate ballot papers under this Act, the council of a local municipality may by by-law authorize the use at a municipal election or by-election of composite ballot papers in such form as the by-law prescribes which shall contain the names of the candidates for each office arranged alphabetically in the order of their surnames or, if there are two or more candidates for the same office with the same surname, in the order of their given names.

Composite
ballot
papers
authorized

(2) A composite ballot may contain,

Contents

(a) the names of candidates for the offices of a council,

board of education, school board, public utility commission or other board, commission or body the members of which are required to be elected by the electors of the municipality or any one or more of such offices; and

- (b) any municipal question or by-law on which a vote is to be taken.

Idem

(3) No elector shall be given a composite ballot paper containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote. R.S.O. 1960, c. 249, s. 73.

Voting machines

75. In place of using ballot papers under this Act, with the approval of the Department, the council of a local municipality may by by-law authorize the use at a municipal election or by-election of voting machines for one or more polling subdivisions. R.S.O. 1960, c. 249, s. 74.

POLLING PLACES

Clerk to furnish deputy returning officers with ballot papers, etc.

76. Before opening the poll, the clerk shall deliver to every deputy returning officer the ballot papers for use in the polling subdivision for which he has been appointed, and shall furnish him with the materials necessary to enable voters to mark their ballot papers, and such materials shall be kept at the polling place by the deputy returning officer for the use of voters. R.S.O. 1960, c. 249, s. 75.

Compartment for marking ballots

77. Every polling place shall be furnished with a compartment in which the voters can mark their ballot papers screened from observation and, if it is not provided by the corporation, the deputy returning officer shall furnish it, and the cost of it shall be repaid to him as provided by subsection 6 of section 70. R.S.O. 1960, c. 249, s. 76.

DIRECTIONS TO VOTERS

Directions to voters to be printed

78. The clerk shall cause to be printed in conspicuous type a sufficient number of the directions for the guidance of voters (Form 7), for the purposes of election, and shall deliver to every deputy returning officer as many of the printed directions, but not fewer than five, as the clerk considers sufficient. R.S.O. 1960, c. 249, s. 77.

Deputy returning officers to placard the directions

79. Every deputy returning officer, before opening the poll, or immediately after he has received the printed directions from the clerk, if they were not received before opening the poll, shall cause them to be placarded outside the polling place, and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. R.S.O. 1960, c. 249, s. 78.

VOTERS' LISTS, POLL BOOKS

80. The proper list of voters to be used at an election is the last municipal voters' list certified under *The Voters' Lists Act* with the supplementary list, if any, under section 82 or the list provided for by section 83. R.S.O. 1960, c. 249, s. 79.

Proper voters' list to be used at an election
R.S.O. 1970, c. 485

81. For the first election in a new municipality for which there is no assessment roll, the clerk instead of a voters' list shall provide every deputy returning officer with a poll book (Form 8), and the deputy returning officer or the poll clerk shall enter in it in the proper column the name of every person who tenders his vote and, at the request of any candidate or voter, shall note opposite the name of such person the property in respect of which he claims to be entitled to vote. R.S.O. 1960, c. 249, s. 80.

For first election in new municipality

82.—(1) Where the whole or any part of a municipality, or locality without municipal organization, has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory into a town, or a new town or village is erected, and an election takes place before a voters' list including the names of the persons entitled to vote in the municipality annexed or such part of a municipality, locality, territory or for the new town or village is certified, the clerk of the municipality to which the same was added and, in the case of a new town or village, the returning officer shall prepare from the last certified voters' list of the municipality annexed, or of the municipality from which such part of a municipality, locality, territory, town or village was or became detached, a supplementary list of voters containing the names of and the other particulars relating to the persons who would have been entitled to vote in the municipality annexed and in such part of a municipality, locality or territory if it had not been so detached.

Voters' lists on formation of new corporation, etc.

(2) The supplementary list shall be signed by the clerk and attested by his declaration, and he shall deliver to every deputy returning officer a copy of so much of such list as relates to his polling subdivision. R.S.O. 1960, c. 249, s. 81.

Clerk's duties as to supplementary lists

83. In a municipality for which there is an assessment roll, but for which there is no voters' list certified, the clerk shall, before the poll is opened, prepare and deliver to the deputy returning officer for every polling subdivision a list signed by him and attested by his declaration, containing the names, arranged alphabetically, of all persons appearing by the then last revised assessment roll to be entitled to vote in that polling subdivision. R.S.O. 1960, c. 249, s. 82.

Voters' list, when clerk to prepare

LIST OF DEFAULTERS IN PAYMENT OF TAXES

84.—(1) In municipalities, the councils of which have passed by-laws under paragraph 52 of subsection 1 of section 354, the treasurer of each local municipality, if the collector's roll has been

Preparation of list of defaulters

returned to him or the collector, if the roll has not been so returned, shall, on or before the day fixed for nomination at the election, prepare and verify by his declaration and deliver to the clerk an alphabetical list of all persons entered on the voters' list whose taxes in respect of land are overdue and unpaid.

List to be made for each polling subdivision

Certified copies to be furnished

(2) Where a municipality is divided into polling subdivisions, such a defaulters' list shall be made for each polling subdivision.

(3) The person who prepares the defaulters' list shall furnish to all persons applying for the same certified copies of it and of the declaration, in the same manner as and for the same compensation for which copies of the voters' list are to be furnished. R.S.O. 1960, c. 249, s. 83.

[NOTE.—See section 41 as to effect of default and payment of taxes before voting.]

Delivery of copies of voters' list, poll book and defaulters' list to D.R.O.

85.—(1) The clerk, before the poll is opened, shall at a time and place appointed by him deliver to the deputy returning officer for every polling subdivision a list, either printed or written, or partly printed and partly written, certified to be a correct list of voters for the polling subdivision, together with a blank poll book (Form 8), and also a copy of the proper defaulters' list prepared under section 84 for the polling subdivision.

Copies may be prepared by clerk of municipality or procured from clerk of peace

(2) The list of voters may be prepared by the clerk or may be procured from the clerk of the peace, and in the latter case the clerk of the peace is entitled to 6 cents for every ten voters whose names are on the list. R.S.O. 1960, c. 249, s. 84.

CERTIFICATES AS TO THE ASSESSMENT ROLL

Clerk to give certificate of dates of final revision of assessment roll, etc.

86.—(1) The clerk, before the poll is opened, shall deliver to every deputy returning officer a certificate (Form 9) of,

- (a) the date of the return of the assessment roll upon which the voters' list is based; and
- (b) the last day for making complaints to the judge with respect to the voters' list to be used at the election.

Fee for certificate

(2) The clerk shall also give to any person applying for it a like certificate upon payment of 25 cents.

Offence

(3) For every contravention of subsection 2, the clerk is guilty of an offence and on summary conviction is liable to a fine of \$200. R.S.O. 1960, c. 249, s. 85.

IN MUNICIPALITIES WITHOUT POLLING SUBDIVISIONS

In municipalities not divided into polling subdivisions, clerk to perform duties of deputy returning officers

87. In municipalities not divided into polling subdivisions, the clerk shall perform the duties that in other cases are performed by deputy returning officers, and shall provide himself with the necessary ballot papers, the materials for marking ballot papers, the printed directions for the guidance of voters, copies of the voters' list, poll book and defaulters' list, and a certificate of

the date of the return of the assessment roll, and the last day for making complaints to the judge with respect to the voters' list, and he shall perform the like duties with respect to the whole municipality as are imposed upon a deputy returning officer for a polling subdivision. R.S.O. 1960, c. 249, s. 86.

WHERE AND HOW OFTEN ELECTORS MAY VOTE

88.—(1) An elector is entitled to vote,

(a) once only for mayor, controller, reeve, deputy reeve;

(b) where the election is by general vote, once only for as many candidates for any office as there are offices to be filled, and once only for each of them.

Number of
votes that
may be
given by
each elector

(2) Where the election is by general vote and an elector is qualified to vote in more than one ward or polling subdivision, he shall vote only in that in which he resides if qualified to vote there or, if not qualified to vote there or if he is not a resident of the municipality, he may elect at which of such wards or polling subdivisions he will vote and shall vote there only.

Where
election by
general vote

(3) Where the aldermen or councillors are elected by wards, an elector if qualified to vote therein may vote in each ward for as many candidates as there are offices to be filled and once only for each of them. R.S.O. 1960, c. 249, s. 87.

Where
aldermen,
etc., elected
by wards

89.—(1) The clerk, at the request of an elector who has been appointed deputy returning officer, poll clerk, special constable or agent of a candidate, for any polling place other than the one at which he is entitled to vote, shall give to such elector a certificate that he is entitled to vote at the polling place where he is to be stationed during polling day, and the certificate shall state the property or other qualification in respect of which he is entitled to vote.

Certificate
to entitle
deputy
returning
officers, poll
clerks, and
agents to
vote where
stationed

(2) On the production of the certificate, such elector has the right to vote at the polling place at which he is stationed instead of at the polling place at which he would otherwise be entitled to vote, and the deputy returning officer shall attach the certificate to the voters' list.

Right to
vote on pro-
duction of
certificate

(3) The certificate does not entitle the elector to vote at such polling place unless he has been actually engaged as deputy returning officer, poll clerk, special constable or agent during polling day, or to vote for aldermen in cities, or for councillors in municipalities divided into wards, except in the ward where he would otherwise be entitled to vote.

Certificate
only to
entitle
officials who
act

(4) If a deputy returning officer votes at the polling place for which he has been appointed, the poll clerk or, in his absence, any elector entitled to be present may administer to the deputy

Who to
administer
oath

returning officer the oath required by law to be taken by voters. R.S.O. 1960, c. 249, s. 88.

THE POLL

Time for
opening and
closing poll

90.—(1) Subject to subsection 2, the poll shall be opened at every polling place at 9 o'clock in the forenoon and shall be kept open until 5 o'clock in the afternoon of the same day.

Idem

(2) The council of a municipality may by by-law passed at least sixty days before the day of nomination change the time for opening and closing the poll so that it will remain open for not less than eight consecutive hours between 8 o'clock in the forenoon and 9 o'clock in the afternoon and any such by-law remains in force from year to year until repealed.

By-election

(3) In the case of a by-election to fill a vacancy in the office of a member of a council, a by-law for the purposes set out in subsection 2 may be passed at least six days before the day of nomination at such by-election.

Vote by
ballot

(4) The votes shall be given by ballot. R.S.O. 1960, c. 249, s. 89.

Advance
poll

91.—(1) A by-law may be passed by the council of a local municipality for providing advance polls for the purpose of receiving the votes of voters who expect to be absent from the municipality, or confined in a hospital, or of election officials who in carrying out their duties as election officials will be unable to attend the poll at which they are entitled to vote, or of voters who for religious reasons are prevented from voting, on the day fixed for polling. R.S.O. 1960, c. 249, s. 90 (1); 1961-62, c. 86, s. 7 (1).

Petition
to hold
poll on
Saturday

(2) When a petition, which according to the certificate of the clerk of the municipality is signed by not less than 10 per cent of the persons qualified to vote on money by-laws, is presented to the council of a local municipality at least seventy-five days before the day fixed for polling requesting the council to pass a by-law for providing advance polls, for the purposes set out in subsection 1, on a Saturday, excepting a Saturday that falls on the 24th, 25th or 31st day of December, the council shall pass a by-law in accordance with the petition. 1966, c. 93, s. 9 (1).

By-law

(3) A by-law passed under subsection 1 or 2 remains in force from year to year until repealed, and must be passed at least sixty days before the day fixed for polling. R.S.O. 1960, c. 249, s. 90 (2); 1966, c. 93, s. 9 (2).

Time of
poll

(4) Polls for receiving the votes of such voters shall be held and kept open for such times and on such days as may be provided in the by-law.

(5) Except as otherwise provided, all the provisions of this Act as to proceedings prior to the holding of the poll and at the poll, and after the closing of the poll, apply. Application of Act

(6) In a municipality where the election is to be held by wards, there shall be a separate poll book for each ward. Poll book for each ward

(7) In a municipality where the election is by general vote, the clerk or some other person appointed by him shall act as deputy returning officer and, in a municipality where the election is by wards, the clerk may act as deputy returning officer for one or more wards or may appoint one or more persons to act as deputy returning officers for one or more wards, and may also appoint as many poll clerks as there are deputy returning officers, and may fix one or more polling places. Deputy returning officer

(8) Notice of the times and places at which polls will be opened shall, prior to the day so fixed for holding the poll, be given by the returning officer by posting up notices at each of the polling places so appointed and in conspicuous places in the municipality and, where possible, by advertisement in a newspaper published or circulated in the municipality. R.S.O. 1960, c. 249, s. 90 (3-7). Notice of polls

(9) Every person offering himself as a voter at the polling place before being allowed to vote shall be required by the deputy returning officer to make one of the following declarations which shall be kept by the deputy returning officer with the other records of the poll: Declaration by voter

Polling place.....

I,, declare that I

(a) expect to be absent from the municipality of; or

(b) as an election official will be unable to attend the poll at which I am entitled to vote; or

(c) expect to be confined in a hospital; or

(d) for religious reasons, am prevented from voting, on the day fixed for polling.

Dated at.....

this.....day of

....., 19....

Witness: Signature of Voter

Deputy Returning Officer

Address of Voter

R.S.O. 1960, c. 249, s. 90 (8); 1961-62, c. 86, s. 7 (2).

(10) Every person who signs any such declaration knowing that any statement therein is false is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100. Offence

Qualification of voter

(11) No person is entitled to vote unless his name appears on the last revised voters' list for the municipality.

Oath

(12) The deputy returning officer and every candidate or his agent may require that the voter, before being handed a ballot, take the oath to be administered to a voter under this Act.

Record of declaration

(13) The poll clerk shall record in the poll book in the column headed "Remarks" after the name of each person who votes under this section a note that he has made the declaration mentioned in subsection 9 and the number of the polling subdivision, if any, in which he is entered on the voters' list.

Fixing of seals

(14) At the close of the poll each day, the deputy returning officer and any candidate or agent present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any ballots be deposited in it without breaking the seals.

List of persons voting

(15) At the close of the poll each day, the deputy returning officer shall forthwith make up and deliver or mail to the returning officer a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the voter is entered on the voters' list, and the returning officer shall, at the request of any candidate, furnish him with a copy of such list.

Noting deputy returning officers' lists or certificate as to voters

(16) Upon receiving from the deputy returning officer the list mentioned in subsection 15, the returning officer shall,

- (a) make an entry in the voters' list to be supplied to each deputy returning officer on polling day opposite the name of each voter whose name appears on such list and whose vote has been received at an advance poll, showing that such voter has polled his vote; or
- (b) make a certificate (Form 11) for each polling subdivision, showing the name and address of each voter listed on the voters' list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on voting day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry in the voters' list supplied to him, opposite the name of each voter whose name appears on the certificate, showing that such voter has polled his vote.

Opening ballot box and counting ballots

(17) On the day fixed for holding the general poll at the election, the deputy returning officer at the polling place shall, in the presence of such candidates and their agents as may be present at the hour fixed for the closing of the general poll, open the ballot box, count the votes and perform all the other duties

required of a deputy returning officer by this Act with respect to the votes polled under this section.

(18) This section applies to an election or by-election for a council, board of education, school board, public utility commission or other board, commission or body the members of which are required to be elected by the electors of the municipality and to voting on any by-law and question submitted to the electors under the authority of this or any other general or special Act. R.S.O. 1960, c. 249, s. 90 (9-17). Application of section

92.—(1) Where in any municipality there is situate a home, hospital or other institution for the reception, treatment or vocational training of disabled nursing sisters, officers and men who were on active service with the naval or military forces of Great Britain or her allies, the council may by by-law declare any such home, hospital or institution to be a polling place for the purpose of elections and a poll shall be held in each such place and all patients therein who are electors of the municipality are entitled to vote at such poll. Special poll for soldiers' hospitals

(2) When any such patient is bed-ridden or unable to walk, it is lawful for the deputy returning officer and poll clerk to attend upon such patient for the purpose of receiving his ballot. Ballot in certain cases

(3) Subsections 5, 6, 7, 11 and 12 of section 91 apply and the clerk of the municipality may cause all things to be made, done and provided for the purpose of holding such poll and ensuring the proper conduct of the election thereat in compliance as nearly as may be with the provisions of this Act respecting elections. R.S.O. 1960, c. 249, s. 91. Application of s. 91

93. The deputy returning officer shall, immediately before opening the poll, show the ballot box to such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent its being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 108. R.S.O. 1960, c. 249, s. 92. Deputy returning officer to show box empty to persons present and then lock and seal it

94.—(1) Where a person tenders his vote, the deputy returning officer shall proceed as follows: Proceedings by deputy returning officer on tender of vote

1. Except where there is no voters' list, he shall ascertain that the name of such person or a name apparently intended for it is entered on the voters' list for the polling subdivision and is not entered upon the defaulters' list. Name

- | | |
|--|--|
| Recording | 2. He shall record, or cause to be recorded by the poll clerk, in the proper columns of the poll book the name, qualification and residence of such person. |
| Objection | 3. Where the vote is objected to by any candidate or his agent, the deputy returning officer shall enter or cause to be entered the objection in the poll book, by writing opposite the name of such person in the proper column the words " <i>Objected to</i> ", and the name of the candidate by or on behalf of whom the objection was made. |
| Oath | 4. If such person takes the prescribed oath, the deputy returning officer shall enter or cause to be entered opposite such person's name, in the proper column of the poll book, the word " <i>Sworn</i> ", or " <i>Affirmed</i> ", according to the fact. |
| Refusal to take the oath | 5. Where such person has been required to take the oath and refuses to do so, the deputy returning officer shall enter or cause to be entered opposite the name of such person, in the proper column of the poll book, the words " <i>Refused to be sworn</i> ", or " <i>Refused to Affirm</i> ", according to the fact. |
| Deputy returning officer to initial ballot paper and mark voters' list | 6. After the proper entries have been made in the poll book, the deputy returning officer shall place or cause to be placed a check or mark opposite the name of the voter in the voters' list to indicate that he has voted, and shall then put his initials on the back of the ballot paper. |
| Delivery of ballot to voter | 7. The ballot paper shall then be delivered to such person. |
| Deputy returning officer to explain mode of voting | 8. The deputy returning officer may, and upon request shall, either personally or through the poll clerk explain to the voter, as concisely as possible, the mode of voting. |
| Offence | (2) The vote of a person who has refused to take the oath shall not be received and, if the deputy returning officer receives such vote or causes it to be received, he is guilty of an offence and on summary conviction is liable to a fine of \$200. R.S.O. 1960, c. 249, s. 93. |
| Voter who alleges he has been impersonated | 95. —(1) If a person representing himself to be a voter applies for a ballot paper after another person has voted as such voter or where an entry has been made on the voters' list in error that such voter has polled his vote, he is entitled to receive a ballot paper and to vote after taking the oath and otherwise establishing his identity to the satisfaction of the deputy returning officer. |
| Note of second ballot to be entered in poll book | (2) The deputy returning officer shall enter or cause to be entered on the poll book opposite the name of the voter a note of his having voted on a second ballot or of an entry having been made in the voters' list in error that he has polled his vote, as the case may be. R.S.O. 1960, c. 249, s. 94. |

96.—(1) The only oath to be required of a person claiming to vote shall be according to Form 12.

Oath, etc.,
of person
claiming
to vote

(2) The voter is entitled to select any one of the forms of oath, whatever may be the description either in the voters' list or assessment roll of the qualification or character in which he is entered upon it.

Voter may
select any
form of
oath

(3) The oath may be administered by the returning officer or deputy returning officer if he thinks fit, and shall be administered at the request of any candidate or his agent, and no inquiry shall be made of a voter except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated on the voters' list, or the assessment roll, as the case may be. R.S.O. 1960, c. 249, s. 95.

When and
how oaths
are to be
adminis-
tered

97. The deputy returning officer or the poll clerk shall place his initials in the appropriate column of the poll book opposite the name of every person who has voted for a candidate for the office named in that column. R.S.O. 1960, c. 249, s. 96.

Deputy
returning
officer to
initial
names of
persons
voting

98.—(1) Upon receiving the ballot paper, the person receiving it shall,

Marking
ballot paper

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper by placing a cross, on the right hand side, opposite the name of a candidate for whom he desires to vote, or at any other place within the division that contains the name of such candidate;
- (b) then fold the ballot paper so as to conceal the names of the candidates, and the marks upon the face of it, and to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer.

(2) The deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates, or the marks made by the voter, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the presence of all persons entitled to be present and then present in the polling place, and the voter shall forthwith leave the polling place. R.S.O. 1960, c. 249, s. 97.

Duties of
D.R.O. on
receipt of
ballot

99. While a voter is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter

Exclusion
from ballot-
ing compart-
ment

the compartment or to be in a position from which he can see how the voter marks his ballot paper. R.S.O. 1960, c. 249, s. 98.

Voter not
to take his
ballot paper
from polling
place

100. A person who has received a ballot paper shall not take, and the deputy returning officer may prevent him from taking it out of the polling place and, if he leaves the polling place without delivering it to the deputy returning officer in the prescribed manner or returns the ballot paper declining to vote, he thereby forfeits his right to vote and the deputy returning officer shall make an entry in the poll book in the column for "*Remarks*" to the effect that such person received a ballot paper, but took it out of the polling place, or returned it, declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "*Declined*" upon the ballot paper and shall preserve it. R.S.O. 1960, c. 249, s. 99.

Proceedings
in case of
incapacity
to mark
ballot
paper

101.—(1) The deputy returning officer on the application of a voter who is incapacitated by physical cause other than blindness from marking his ballot paper, or who makes a declaration (Form 13) that he is unable to read, or where the voting is on a Saturday that he is of Jewish persuasion and objects on religious grounds to mark his ballot paper in the manner prescribed by section 98, shall,

- (a) in the presence of the poll clerk and the agents of the candidates, cause the vote of such person to be marked on the ballot paper in the manner directed by him, and shall place the ballot paper in the ballot box;
- (b) make an entry opposite the name of the voter in the proper column of the poll book that his vote was marked in pursuance of this section, and of the reason why it was so marked.

Oral dec-
laration

(2) Where the voter objects on religious grounds to mark his ballot paper, the declaration may be made orally.

Voter in-
capacitated
by blindness,
etc.

(3) The deputy returning officer, on the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, shall require the voter making such application to make a declaration (Form 13) of his incapacity to vote without assistance, and shall thereafter assist such voter by marking his ballot paper in the manner directed by such voter in the presence of the sworn agents of the candidates, or of the sworn electors representing the candidates in the polling place and of no other person, and place such ballot in the ballot box.

Blind
voter's ballot
marked by
friend

(4) The deputy returning officer shall either deal with a blind voter in the same manner as with an illiterate or otherwise incapacitated voter, or, at the request of any blind voter who has

made the declaration (Form 13) and is accompanied by a friend, shall permit such friend to accompany the blind voter into the voting compartment and mark the voter's ballot for him.

(5) Any friend who is permitted to mark the ballot of a blind voter as aforesaid shall first be required to make a declaration (Form 14) that he will keep secret the name of the candidate for whom the ballot of such blind voter is marked by him, and no person shall at any polling place be allowed to act as the friend of more than one blind voter.

Oath of friend

(6) The deputy returning officer shall enter in the column for remarks in the poll book opposite the voter's name the reason why such ballot paper was marked by him or by a friend of the voter.

Reasons to be noted

(7) Where a voter has made the declaration (Form 13) of his inability to read, the deputy returning officer shall complete and subscribe to the certificate (Form 15). R.S.O. 1960, c. 249, s. 100.

Certificate where voter unable to read

102. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot paper, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot paper, and preserve it. R.S.O. 1960, c. 249, s. 101.

Proceedings in case ballot paper cannot be used

103. A person who applies for a ballot paper shall be deemed to have tendered his vote, and a person whose ballot paper has been deposited in the ballot box, or who has delivered it to the deputy returning officer or poll clerk, for the purpose of having it deposited in the ballot box, shall be deemed to have voted. R.S.O. 1960, c. 249, s. 102.

What shall be deemed a tender of a vote and a voting

104. The deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his agent, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. R.S.O. 1960, c. 249, s. 103.

Who may be in polling place

105. A candidate is entitled to one agent only in a polling place at any one time. R.S.O. 1960, c. 249, s. 104.

Agents

106.—(1) No person on the day of the polling shall use or deliver to any other person any card, ticket, leaflet, book, circular or writing soliciting votes for or against any candidate, or by-law, or for an affirmative or negative answer to any question, or having upon it the name of any candidate.

Use or delivery of election cards, etc.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1960, c. 249, s. 105.

Persons inside polling place

107. Every person qualified to vote thereat who is inside the polling place at the time fixed for closing the poll is entitled to vote. R.S.O. 1960, c. 249, s. 106.

PROCEEDINGS AFTER THE CLOSE OF THE POLL

Counting the votes

108. Immediately after the close of the poll, the deputy returning officer shall first place all the cancelled and declined ballot papers in separate packets and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted, and cause a certificate, in the following form: "*I certify that the number of voters who voted at the election in this polling place is (stating the number in words) and that was the last person who voted at this polling place*", to be entered in the poll book on the line immediately below the name of the voter who voted last, and the certificate shall be signed by the deputy returning officer, the poll clerk, and any candidate or agent present who desires to sign it; then, in their presence and in full view he shall open the ballot box and count the number of votes for each candidate, giving full opportunity to those present to examine each ballot paper. R.S.O. 1960, c. 249, s. 107.

What votes to be rejected

109.—(1) In counting the votes, the deputy returning officer shall reject all ballot papers,

- (a) that have not been supplied by him; or
- (b) by which votes have been given for more candidates than are to be elected; or
- (c) upon which there is any writing or mark by which the voter can be identified, or that has been so torn, defaced or otherwise dealt with by the voter that he can thereby be identified,

but no word, letter or marks written or made or omitted to be written or made by the deputy returning officer on a ballot paper voids it or warrants its rejection.

Counting votes where ballot paper relates to two or more offices

(2) Where on a ballot paper that contains the names of candidates for more than one office votes are given for more candidates for any office than are to be elected, the ballot is void as regards all the candidates for such office but is good as regards the votes for any other offices in respect of which the voter has not voted for more candidates than are to be elected.

Composite ballots

(3) Where on a composite ballot paper,

- (a) votes are given for more candidates for any office than are to be elected; or

- (b) votes are given for the affirmative and negative on any by-law or question,

the vote is void as regards the candidates for such office or as regards the by-law or question, as the case may be, but does not affect the votes for any other offices, by-laws or questions in respect of which a vote is correctly indicated. R.S.O. 1960, c. 249, s. 108.

110.—(1) The deputy returning officer shall make a note of every objection taken to a ballot paper by a candidate or his agent and shall decide the objection subject to review on recount or in a proceeding questioning the validity of the election.

Objections
to be noted
and decided

(2) Each objection shall be numbered and a corresponding number shall be placed on the back of the ballot paper and initialled by the deputy returning officer. R.S.O. 1960, c. 249, s. 109.

Numbering
objections

111.—(1) All the ballot papers except those rejected shall be counted, and an account shall be kept of the number of votes given and allowed for each candidate, and all the ballot papers shall be put into separate packets as follows:

Procedure on
counting
ballot papers
and notes
and placing
ballot papers
into packets

- (a) all the used ballot papers that have not been objected to and have been counted;
- (b) all the used ballot papers that have been objected to, but which have been counted;
- (c) all the rejected ballot papers;
- (d) all the cancelled ballot papers;
- (e) all the ballot papers used but unmarked;
- (f) all the declined ballot papers;
- (g) all the unused ballot papers.

(2) Every packet shall be endorsed so as to indicate its contents, and shall be sealed by the deputy returning officer, and any candidate or agent present may write his name on the packet and may affix to it his seal. R.S.O. 1960, c. 249, s. 110.

Each packet
to be
endorsed
and sealed

112.—(1) The deputy returning officer shall make out a statement in duplicate of,

Statement
of result to
be made by
deputy
returning
officer

- (a) the number of ballot papers received from the clerk;
- (b) the number of votes given for each candidate and the rejected ballot papers;
- (c) the used ballot papers that have not been objected to and have been counted;
- (d) the ballot papers that have been objected to, but which have been counted by the deputy returning officer;

- (e) the rejected ballot papers;
- (f) the cancelled ballot papers;
- (g) the ballot papers used but unmarked;
- (h) the declined ballot papers;
- (i) the unused ballot papers; and
- (j) the number of voters whose ballot papers have been marked by the deputy returning officer under section 101.

Disposal of statement

(2) One statement shall be attached to the poll book and the other shall be enclosed in a special packet and delivered to the clerk.

Signing of statement

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their agents as are present and desire to sign it.

Certificate of result of poll

(4) The deputy returning officer shall deliver to such of the candidates or their agents as are present, if requested to do so, a certificate of the number of ballot papers counted for each candidate, and of the rejected ballot papers. R.S.O. 1960, c. 249, s. 111.

Oath of poll clerk

113. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe an oath similar to that required by subsection 3 of section 115 to be taken by the deputy returning officer. R.S.O. 1960, c. 249, s. 112.

Poll book, etc., to be placed in ballot box

114.—(1) The poll book, the voters' list, the packets containing the ballot papers, and all other documents that served at the election shall be placed in the ballot box, except,

- (a) the duplicate statement;
- (b) the oath of the deputy returning officer, Form 17;
- (c) the oath of the poll clerk, Form 17 or similar oath; and
- (d) the oath of the person, if any, chosen to deliver the ballot box to the clerk, Form 16.

Opening of box where documents placed in box in error

(2) Where the documents referred to in subsection 1 are in error placed in the ballot box or where the statement cannot be interpreted by the returning officer, the returning officer may open such ballot box or boxes in the presence of the deputy returning officer concerned and, after having recovered or ascertained the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the returning officer. R.S.O. 1960, c. 249, s. 113.

Delivery of ballot box to clerk

115.—(1) The deputy returning officer shall then immediately lock and seal the box, and any candidate or agent present may

also affix to it his seal and the deputy returning officer shall then forthwith deliver it personally to the clerk or, if he is unable to do so owing to illness or other imperative cause, he shall deliver it to the poll clerk or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it, and shall on it or on a ticket attached to it write the name of the person to whom the ballot box has been delivered, and shall take a receipt for it, and the poll clerk or person so chosen shall forthwith deliver the ballot box personally to the clerk and shall take and subscribe before him the oath (Form 16).

(2) In cities and towns, the deputy returning officer or, in case of his inability, as mentioned in subsection 1, the poll clerk or the person chosen shall proceed directly from the polling place to the office of the clerk with the ballot box, and there personally on the same day, as soon as possible after leaving the polling place, deliver it to the clerk, and the poll clerk or the person chosen shall take and subscribe before him the oath (Form 16), and the clerk shall remain in his office on the evening of the polling day until all the ballot boxes have been returned to him.

Return of
ballot boxes,
etc., in
cities and
towns

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the oath (Form 17), and shall personally deliver it or transmit it by registered mail to the clerk. R.S.O. 1960, c. 249, s. 114.

Oath of
D.R.O.

116. The clerk, upon the receipt of a ballot box, shall take every precaution for its safe keeping and for preventing any other person from having access to it, and shall immediately on the receipt of it seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. R.S.O. 1960, c. 249, s. 115.

Duties of
clerk as to
ballot box

117. A deputy returning officer in a city or town shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk. R.S.O. 1960, c. 249, s. 116.

D.R.O. not
to take
ballot box
to his home

118. Where the holding of the election has been interrupted, as mentioned in section 121, the deputy returning officer shall delay making his return to the clerk until the polling has taken place. R.S.O. 1960, c. 249, s. 117.

Return by
D.R.O. when
election in-
terrupted

119. The clerk, after he has received the ballot boxes and other documents referred to in section 114, including the duplicate statements of the number of votes given by each polling place, without opening any of the ballot boxes, shall cast up from such duplicate statements the number of votes for each candidate and at the town hall or, if there is no town hall, at some other

Clerk to
cast up
votes and
declare what
candidates
elected

public place, at noon on the second day following the day on which the polling is held, shall publicly declare to be elected the candidate or candidates having the highest number of votes, and he shall also put up in some conspicuous place a statement under his hand showing the number of votes for each candidate. R.S.O. 1960, c. 249, s. 118.

Tie vote,
recount
necessary

120.—(1) If, upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of such candidates cannot be elected, the clerk shall publicly declare the result and put up in a conspicuous place a statement under his hand showing the number of votes for each candidate and shall forthwith notify a judge of the county or district court of the county or district in which the municipality is situate of the result and the judge shall thereupon appoint a time and place to recount the votes cast for such candidates.

Procedure

(2) In such proceedings, sections 122 and 123 apply *mutatis mutandis*. R.S.O. 1960, c. 249, s. 119 (1, 2); 1965, c. 77, s. 10.

ELECTION NOT HELD AT PROPER TIME, ETC.

Election
not com-
menced, or
interrupted
by reason of
riot, etc., to
be resumed

121. If, by reason of a riot or other emergency, an election, or the voting at a polling place, is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, the returning officer or deputy returning officer, as the case may be, shall hold or resume the election on the following day at the hour of 9 o'clock in the forenoon, and continue the same from day to day until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eight hours in all. R.S.O. 1960, c. 249, s. 120.

[As to postponement of an election on account of an epidemic or contagious disease, see *The Public Health Act*, R.S.O. 1970, c. 377.]

RECOUNT

Application
for recount
or re-
addition

122.—(1) If, within fourteen days after the declaration by the clerk of the result of the election, upon the application of a candidate or voter it is made to appear by affidavit to a judge of the county or district court of the county or district in which the municipality is situate that a deputy returning officer, in counting the votes, has improperly counted or rejected any ballot paper, or made an incorrect statement of the number of ballots cast for any candidate, or has improperly added up the votes, and if within that time the applicant has given security for the costs in connection with the recount or final addition of the candidate declared elected of such nature and in such amount as may be fixed by the judge, or if at any time within four weeks after such

declaration in a local municipality the council has by resolution declared that a recount or re-addition is desirable in the public interest, the judge shall appoint a time and place to recount or re-add the votes cast at the election.

(2) In all cases of a recount or re-addition of the ballots cast for candidates elected by general vote in a local municipality divided into wards, the judge may order that the recount or re-addition shall be conducted separately in each ward, and for that purpose may appoint for any ward, as his deputy, another judge or a barrister of at least ten years standing at the bar of Ontario to recount or re-add the votes cast at the election in such ward and a time and place for such recount or re-addition to be held, and every such deputy shall, for all the purposes of the recount or re-addition and in respect to the ward for which he is appointed, have the powers and perform the duties of the judge as hereinafter set out in this section.

Deputies in municipalities divided into wards

(3) At least two days notice in writing of the time and place appointed shall be given to the candidates and to the clerk, and the clerk or an assistant clerk appointed for the purpose shall attend the recount or re-addition with the ballot boxes and all documents relating to the election.

Notice of time and place for recount or re-addition

(4) The judge, the clerk, the assistant clerk and each candidate and his agent appointed to attend the recount or re-addition, but no other person, except with the sanction of the judge, is entitled to be present at the recount.

Who may attend

(5) The recount shall be of the ballots cast respectively for the candidate declared elected when one only is to be elected or in other cases of the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the ballots cast for him to be recounted or re-added.

Which ballots to be re-added or recounted

(6) At the time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge shall make such final addition from the statements contained in the ballot boxes returned by the deputy returning officers, or recount all the ballot papers received by the clerk from the several deputy returning officers and the number of votes counted at the election and shall for the purpose of the recount open the sealed packets containing the used ballot papers that were not objected to and were counted, the ballot papers that were objected to but which were counted, the rejected ballot papers, the cancelled ballot papers, the ballot papers that were used but were unmarked, the declined ballot papers and the unused ballot papers.

Making re-addition or recount

(7) The judge shall, as far as practicable, proceed continuously, allowing only time for refreshment and excluding, except so far

Proceedings to be continuous

as he and the persons present agree, the hours between 6 o'clock in the afternoon and 9 o'clock in the succeeding forenoon, and during the excluded time the judge shall place the ballot papers and other documents relating to the election close under his own seal and the seal of such of the persons present as desire to affix their seals, and shall otherwise take all necessary precautions for their security.

Procedure
as at close
of poll

(8) Subject to subsection 9, the judge shall proceed according to the provisions for the counting of the ballot papers and the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

Evidence
may be
taken

(9) If for any reason it appears desirable to do so, the judge upon the application of any party to the proceeding may hear such evidence as he considers necessary for the purpose of making a full and proper recount of the ballot papers.

Judge's
certificate
of result

(10) Upon the completion of the recount, the judge shall seal up all the ballot papers in their separate packets and upon the completion of a re-addition he shall seal up the original statements in their respective packets, and shall forthwith certify the result of the recount or re-addition to the clerk. R.S.O. 1960, c. 249, s. 121 (1-10).

When clerk
to have
casting vote

(11) If the certificate of the result of the recount shows that the candidates have an equal number of votes, the clerk shall forthwith after receiving the certificate give a vote for one or more of the candidates so as to decide the election.

Clerk's
declaration
of result

(12) Upon the result of the recount or re-addition being ascertained under subsection 10 or 11, the clerk shall declare elected the candidate so ascertained as having the greatest number of votes, and such declaration shall be deemed for all purposes to have been substituted for the prior declaration made under section 119 if it is different from such prior declaration. 1965, c. 77, s. 11.

Other
remedies not
affected

(13) Nothing in this section affects any remedy that any person may have under the provisions hereinafter contained by proceedings in the nature of *quo warranto* or otherwise. R.S.O. 1960, c. 249, s. 121 (12).

Costs

123.—(1) The costs of the recount are in the discretion of the judge who may order by whom, to whom and in what manner the costs shall be paid.

Amount or
scale of
costs

(2) The judge may in his discretion award costs of the recount or re-addition to or against any candidate and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court.

(3) Where costs are directed to be paid by the applicant, the money deposited as security for costs shall be paid out to the party entitled to such costs, so far as necessary.

Deposit,
disposal

(4) Payment of the costs may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them.

Recovery
of costs

(5) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him to recount the votes. R.S.O. 1960, c. 249, s. 122.

Expenses
of judge
attending
at recount

SECRECY OF PROCEEDINGS

124.—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.

Maintaining
secrecy of
proceedings

(2) No person shall interfere or attempt to interfere with a voter when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how a voter is about to vote or has voted.

Inter-
ference with
voters

(3) No person shall communicate any information obtained at a polling place as to how a voter at such polling place is about to vote or has voted. R.S.O. 1960, c. 249, s. 123.

Communi-
cating in-
formation
as to how
voter has
voted

125. No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot paper after he has marked it, so as to make known to any person how he has voted. R.S.O. 1960, c. 249, s. 124.

Inducing
voter to
display
ballot after
marking

126. Subject to section 101, a voter shall not show his ballot paper, when marked, to any person so as to make known how he voted. R.S.O. 1960, c. 249, s. 125.

Voter not
to display
marked
ballot

127. Every returning officer and every officer, clerk, constable, agent and other person authorized to attend at a polling place, or at the counting of the votes, shall, before entering on his duties, take the oath of secrecy (Form 18). R.S.O. 1960, c. 249, s. 126.

Oath of
secrecy

128.—(1) If a returning officer, deputy returning officer or poll clerk becomes aware, or has reason to believe or suspect, that any provision of the law as to secrecy has been violated, he shall forthwith communicate the particulars to the Crown attorney.

Proceedings
where
officers
aware of
violation
of secrecy

(2) The Crown attorney on receiving such information from any person shall forthwith inquire into the matter and, if proper, prosecute the offender. R.S.O. 1960, c. 249, s. 127.

Crown
attorney to
prosecute

No one
compellable
to disclose
his vote

129. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted. R.S.O. 1960, c. 249, s. 128.

GENERAL

Returning
officers, etc.,
wilfully
falsifying
or altering
list of
voters to
incur
penalty

130. Every returning officer, deputy returning officer, or other person whose duty it is to deliver poll books or who has the custody of a voters' list or poll book, who wilfully makes any alteration or insertion in or wilfully omits anything from or in any way wilfully falsifies such voters' list or poll book, is guilty of an offence and on summary conviction is liable to a fine of \$2,000 and is also liable to imprisonment for a term of not more than one year. R.S.O. 1960, c. 249, s. 129.

Offences
relating
to ballot
papers

131. Every person who,

- (a) fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer thereon; or
- (b) without due authority supplies a ballot paper to any person; or
- (c) fraudulently places in a ballot box a paper other than the ballot paper that he is authorized by law to place therein; or
- (d) fraudulently delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot paper given to him by the deputy returning officer; or
- (e) fraudulently takes a ballot paper out of the polling place; or
- (f) without authority destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers or a ballot paper or ballot in use or used for the purposes of an election; or
- (g) applies for a ballot paper in the name of another person whether the name be that of a person living or dead or of a fictitious person, or having voted applies at the same election for a ballot paper in his own name or votes oftener than he is entitled to; or
- (h) being a deputy returning officer, contravenes section 117, or fraudulently puts his initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election; or
- (i) with fraudulent intent, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or

- (j) being employed to print the ballot papers for an election, with fraudulent intent, prints more ballot papers than he is authorized to print; or
- (k) attempts to commit or aids, abets, counsels or procures the commission of any offence mentioned in this section,

is guilty of an offence and if, a returning officer, deputy returning officer or other officer engaged in the election, on summary conviction is liable to imprisonment for a term of not more than two years, and, in the case of any other person, to imprisonment for a term of not more than six months. R.S.O. 1960, c. 249, s. 130.

132.—(1) Every person who wilfully and maliciously destroys, injures, obliterates or removes or causes to be destroyed, injured, obliterated or removed a warrant for holding an election, a poll book, voters' list, certificate, affidavit or other document or paper made, prepared or drawn according to or for the purpose of meeting any requirement of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 1962-63, c. 87, s. 5.

Persons unlawfully destroying, etc., documents relating to elections, etc.

(2) Every person who aids, abets, counsels or procures the commission of a contravention of subsection 1 is guilty of an offence and is liable on summary conviction to the same fine or imprisonment as provided in subsection 1. R.S.O. 1960, c. 249, s. 131 (2), *amended*.

Abettors punishable

133.—(1) Every deputy returning officer who wilfully omits to put his initials on the back of a ballot paper in use for the purposes of an election is guilty of an offence and on summary conviction is liable to a fine of \$10 in respect of every such ballot paper.

D.R.O. omitting to initial ballots

(2) A deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by sections 108 to 116 is guilty of an offence and, for each refusal or neglect, on summary conviction is liable to a fine of \$200. R.S.O. 1960, c. 249, s. 132.

D.R.O. or poll clerk neglecting duties

134. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll is guilty of an offence and on summary conviction is liable to a fine of \$200. R.S.O. 1960, c. 249, s. 133.

Wilfully miscounting ballots, etc.

135. Every person who acts in contravention of sections 124 to 126 is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than six months. R.S.O. 1960, c. 249, s. 134.

Penalty for violating secrecy

Money
penalty for
offences

136. Every officer engaged in the election who is guilty of a wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person who may be aggrieved thereby the sum of \$400. R.S.O. 1960, c. 249, s. 135.

MISCELLANEOUS PROVISIONS

Candidate
may under-
take duties
of an agent

137. A candidate may undertake the duties that his agent might undertake, or he may assist his agent in the performance of such duties, and may be present at any place at which his agent is authorized to be present, but no candidate shall be present at the marking of a ballot paper under section 101 and no candidate shall be present in a polling place at the counting of the votes if his agent is in the polling place. R.S.O. 1960, c. 249, s. 136.

Who may
administer
oaths re
election

R.S.O. 1970,
c. 225

138. Except where otherwise provided, any oath required to be taken in connection with an election may be taken before the clerk of the municipality, a returning officer or a deputy returning officer, as well as before any other person by whom under *The Interpretation Act* an oath may be administered. R.S.O. 1960, c. 249, s. 137.

Ballot
papers, how
disposed of

139.—(1) The clerk shall retain in his possession for six weeks all the ballot papers, and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election, shall then destroy them in the presence of two witnesses, who shall make a declaration that they witnessed the destruction of them.

Declaration

(2) The declaration shall be made before the head of the municipality and filed in the office of the clerk.

Disposal of
documents
relating to
election

(3) Subject to subsection 1, the clerk shall retain in his possession all oaths, statements of the vote and other documents relating to an election until the successors to be persons elected at such election have taken office, and shall then destroy them. R.S.O. 1960, c. 249, s. 138.

Ballot
papers to
be inspected
only by
order of a
judge

140.—(1) No person shall be allowed to inspect any ballot paper in the custody of the clerk except under the order of a judge or an officer having jurisdiction to inquire as to the validity of the election.

Grounds for
granting
order

(2) The order may be made on the judge or officer being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence in relation to ballot papers, or of taking proceedings for contesting the election or return.

Order may
be subject to
conditions

(3) The order may be made subject to such conditions as the judge or officer considers proper. R.S.O. 1960, c. 249, s. 139.

141. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballot papers so produced is evidence that the contents are what they are stated to be by the endorsement. R.S.O. 1960, c. 249, s. 140.

Production of documents and endorsements on ballot papers evidence for certain purposes

142. Where in this Part expressions are used, requiring or authorizing any act or thing to be done, or implying that any act or thing is to be done in the presence of the agents of the candidate, they shall be deemed to refer to the presence of such agents of the candidates as are authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of an agent at such time and place, if it is otherwise duly done, does not invalidate the act or thing done. R.S.O. 1960, c. 249, s. 141.

Expressions referring to agents

Non-attendance of agents

143. No election is or shall be declared to be invalid,

- (a) for non-compliance with the provisions of this Act as to the taking of the poll or anything preliminary thereto or as to the counting of the votes; or
- (b) by reason of mistake in the use of the prescribed forms; or
- (c) by reason of any mistake or irregularity in the proceedings at or in relation to the election,

When election not to be declared invalid

if it appears to the tribunal by which the validity of the election or any proceeding in relation to it is to be determined that the election was conducted in accordance with the principles laid down in this Act, and it does not appear that such non-compliance, mistake or irregularity affected the result of the election. R.S.O. 1960, c. 249, s. 142.

144. The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, and for the transmission of packets, and reasonable fees and allowances for services rendered under this Part, shall be paid to the clerk by the treasurer, and shall be paid by the clerk to the persons entitled thereto. R.S.O. 1960, c. 249, s. 143.

Expenses incurred by officers to be repaid to them

VACANCIES IN COUNCIL

145. The seat of a member of a council becomes vacant if he,

- (a) is undergoing imprisonment under sentence for a criminal offence; or
- (b) becomes bankrupt or insolvent within the meaning of any bankruptcy or insolvency Act in force in Ontario; or

Seat to become vacant by crime, insolvency, absence, etc.

R.S.O. 1970,
c. 183

- (c) is in close custody under *The Fraudulent Debtors Arrest Act* or is discharged from close custody under section 51 of that Act; or
- (d) assigns his property for the benefit of his creditors; or
- (e) absents himself from the meetings of the council for three successive months without being authorized so to do by a resolution of the council entered upon its minutes; or
- (f) files his resignation with the clerk of the municipality as provided in subsection 2 of section 36 or subsection 6 of section 149 for the purpose of becoming a candidate for council in some other office; or
- (g) is appointed to fill a vacancy in the office of mayor, reeve or deputy reeve; or
- (h) is appointed to fill a vacancy in the board of control,

and the council shall forthwith declare the seat to be vacant.
R.S.O. 1960, c. 249, s. 144; 1967, c. 55, s. 7.

Proceedings
if disquali-
fied member
fails to
resign

146. Except in the cases provided for by section 145, if a member of a council forfeits his seat or his right to it or becomes disqualified to hold it and does not forthwith resign his seat, proceedings may be taken under sections 151 to 170 to declare it vacant. R.S.O. 1960, c. 249, s. 145.

Resignation
of member
with consent
of council

147. A member of a council, with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council but he shall not vote on a motion as to his own resignation, and may not resign his office and his seat in council if his resignation would reduce the number of the members of the council to less than a quorum. R.S.O. 1960, c. 249, s. 146; 1965, c. 77, s. 12.

Resignation
of warden

148.—(1) The warden of a county may resign his office either by verbal intimation to the county council when in session or by letter to the clerk when the council is not in session.

Vacancy in
office of
warden,
how filled

(2) Where from any cause a vacancy occurs in the office of warden when the council is not in session, the clerk shall forthwith notify the members of the vacancy and, if required in writing so to do by a majority of them, he shall call a special meeting of the council to fill the vacancy. R.S.O. 1960, c. 249, s. 147.

When new
election to
be held

149.—(1) Subject to section 150, a new election shall be held forthwith where,

- (a) a person elected has neglected or refused to accept office or to make the prescribed declarations within the prescribed time; or
- (b) a vacancy, except in the office of controller, occurs from any cause. R.S.O. 1960, c. 249, s. 148 (1); 1968, c. 76, s. 8 (1).

(2) Where a new election is to be held, the head of the council or, if he is absent or unable to act or there is a vacancy in the office, the clerk or, if they are both absent or unable to act or both offices are vacant, one of the members of the council shall forthwith issue a warrant under his hand for the holding of the new election.

Warrant
for new
election

(3) The returning officer and the deputy returning officers appointed to hold the next preceding election shall be the returning officer and the deputy returning officers to hold the new election, and the nomination shall be held and the polling shall take place at the respective places at which the nomination was held and the polling took place at such last election, unless the council appoints other persons to hold the election and other places at which the nomination shall be held and the polling take place, which the council may do.

Returning
and deputy
returning
officers,
nomination
and polling

(4) Where a new election becomes necessary before the first meeting of the council in the year for which it is elected, the duties which by subsection 2 are to be performed by the head, clerk or a member of the council shall be performed by the head, clerk or a member of the council of the next preceding year.

Procedure
where new
election
before first
meeting of
council

(5) The new election shall be held at the latest within fifteen days after the receipt of the warrant by the person to whom it is directed, and the person issuing the warrant shall appoint a time for the nomination of candidates and for the polling if a poll is required, and the election shall be conducted in like manner as an annual election. R.S.O. 1960, c. 249, s. 148 (2-5).

Time for
holding
election

(6) Subject to section 150, no person who is a member of the council and whose term of office has at least two months to run after the day on which the nomination meeting for the new election is to be held is eligible to be nominated for membership in the council in any other office unless he has before the time of the opening of the nomination meeting filed his resignation from the office that he then holds with the clerk of the municipality, and the clerk shall not place on the ballot paper the name of any such person as a candidate who fails to file such resignation within the time aforesaid. R.S.O. 1960, c. 249, s. 148 (6); 1968, c. 76, s. 8 (2).

Resignation

(7) The person elected shall hold office for the remainder of the term for which the person whose place he is elected to fill was elected.

Term of
office of
members
elected

Majority of council may hold meeting

(8) Notwithstanding that a new election becomes necessary, meetings of the council may be held if a majority of the full number of the council is present. R.S.O. 1960, c. 249, s. 148 (7, 8).

Vacancy in office of mayor, reeve or deputy reeve

150.—(1) Where the office of mayor, reeve or deputy reeve becomes vacant in any year and an election to fill the vacancy has not been ordered in a judicial proceeding, the council shall appoint one of their number to fill the office for the remainder of the term. R.S.O. 1960, c. 249, s. 150 (1); 1962-63, c. 87, s. 7 (1).

Filling of vacancy

(2) In the appointment of a member of council to fill a vacancy under subsection 1, any member of council may nominate any other member of council to fill the vacancy and, if more than one councillor is nominated, a vote of the members of council shall be taken and the person who receives the highest number of votes is entitled to the office, and, in the event of a tie, the matter shall be determined by lot cast by the clerk in the presence of the persons having the equal number of votes. 1968, c. 76, s. 10 (1).

When vacancy need not be filled

(3) Where in a year in which an election is to be held a vacancy occurs in the office of councillor after the 1st day of November or after the 1st day of October where a by-law has been passed under section 45 and an election has not been ordered in a judicial proceeding, it is not necessary that the vacancy be filled if the council so directs. R.S.O. 1960, c. 249, s. 150 (2); 1961-62, c. 86, s. 8.

Vacancy in office of alderman or councillor

(4) Where a vacancy occurs in the office of alderman or councillor and an election has not been ordered in a judicial proceeding, the council, at a meeting called for that purpose shall appoint a person to fill the vacancy for the remainder of the term.

Filling of vacancy

(5) In the appointment to fill a vacancy under subsection 4, any member of council may nominate a person who is qualified to be elected a member of council and who has consented to accept the office if appointed to fill a vacancy, and, if more than one person is nominated, a vote of the members of council shall be taken and the person who receives the highest number of votes is entitled to the office, and, in the event of a tie, the presiding officer shall have an additional deciding vote. 1968, c. 76, s. 10 (2).

Vacancies not requiring a by-election

(6) Where the seat of a member of council is rendered vacant by reason of the filing of the resignation mentioned in subsection 2 of section 36, the vacancy shall not be filled in the manner provided in section 149 or this section, but the seat shall remain vacant until the next ensuing election when it shall be filled in the manner provided by this Act or any special Act that may be applicable, except that the person then elected to fill the vacancy shall hold office only for the remainder of the term for which the

person who vacated the office was elected to such office. R.S.O. 1960, c. 249, s. 150 (4); 1968, c. 76, s. 10 (3).

PART IV

PROCEEDINGS TO DECLARE SEAT VACANT

PROCEDURE

151. In this Part, "judge", unless the court is referred to by name, includes a judge of the Supreme Court and a judge of a county or district court. R.S.O. 1960, c. 249, s. 151; 1961-62, c. 86, s. 9. Interpretation

152.—(1) The validity of the election of a member of a council or his right to hold his seat, or the right of a local municipality to a deputy reeve, may be tried and determined by a judge of the Supreme Court or by a judge of the county or district court of the county or district in which the municipality is situate. R.S.O. 1960, c. 249, s. 152 (1); 1961-62, c. 86, s. 10. Who may try validity of election or right to deputy reeve

(2) Where the right of a municipality to a deputy reeve is contested, any municipal elector in the county or, where the validity of the election is contested, any candidate at the election or an elector who gave or tendered his vote at it, or where the election was by acclamation, or the right to sit is contested on the ground that the member has become disqualified or has forfeited his seat since his election, an elector entitled to vote at the election may be the relator. R.S.O. 1960, c. 249, s. 152 (2). Relator

153.—(1) If within six weeks after an election or one month after the acceptance of office by a member of a council a person entitled to be a relator shows by affidavit reasonable ground for supposing that the election was not legal, or was not conducted according to law, or that the person declared elected was not duly elected, or for contesting the validity of the election, or if within six weeks after the facts come to the knowledge of a person entitled to be a relator he shows by affidavit reasonable ground for supposing that a member of a council has forfeited his seat or become disqualified since his election, the judge shall give his fiat authorizing the relator, upon entering into a recognizance as hereinafter provided and the same being allowed as sufficient, to serve a notice of motion to determine the matter. R.S.O. 1960, c. 249, s. 153 (1); 1961-62, c. 86, s. 11 (1). Time within which proceedings to be instituted and security and proof required

(2) The recognizance shall be entered into before the judge granting the fiat or before a commissioner for taking affidavits by the relator in the sum of \$200 and by two sureties, to be allowed as sufficient by the judge upon affidavit of justification, each in the sum of \$100, and shall be conditioned to prosecute the motion with effect and to pay to the person against whom it is made any costs that may be adjudged to him against the relator. R.S.O. 1960, c. 249, s. 153 (2); 1961-62, c. 86, s. 11 (2). Recognizance

Allowance
of recog-
nizance

(3) When the recognizance has been allowed as sufficient, the judge by whom it is allowed shall note upon it and upon the fiat allowing service of the notice of motion the words "*Recognizance allowed*" and shall initial the same. R.S.O. 1960, c. 249, s. 153 (3); 1961-62, c. 86, s. 11 (3).

Proceedings,
how to
be entitled

(4) Where the proceedings are taken before a judge of the Supreme Court, they shall be entitled in the Supreme Court and, where they are taken before a judge of a county or district court, they shall be entitled in that court. R.S.O. 1960, c. 249, s. 153 (4); 1961-62, c. 86, s. 11 (4).

Contents
of notice
of motion

154. The relator in his notice of motion shall set forth his name in full, his occupation and place of residence, and the interest that he has in the election, whether as candidate or as an elector, and shall state specifically under distinct heads all the grounds of objection to the validity of the election complained of, and in favour of the validity of the election of himself or of any other person where the relator claims that he or that such person was duly elected, or the grounds of forfeiture or disqualification, as the case may be. R.S.O. 1960, c. 249, s. 154.

Affidavits,
etc., to be
filed

155. Before serving the notice of motion, the relator shall file all the affidavits and material upon which he intends to move, except where oral evidence is to be taken, and in that case he shall name in the notice the witnesses whom he proposes to examine. R.S.O. 1960, c. 249, s. 155.

Service of
notice of
motion

156. The notice of motion shall be served within two weeks from the date of the fiat, unless upon a motion to allow substituted service the judge otherwise orders, and not less than seven clear days before the day on which the motion is returnable, and shall be served personally unless the person to be served avoids personal service, in which case an order may be made for substituted service. R.S.O. 1960, c. 249, s. 156; 1961-62, c. 86, s. 12.

Where
relator
claims that
he or an-
other was
elected

157. Where the relator alleges that he or some other person was duly elected, the motion shall be to try the validity of the election complained of and of the alleged election of the relator or other person. R.S.O. 1960, c. 249, s. 157.

One motion
against
several
persons

158. Where the grounds of objection apply to two or more persons elected or sitting as members of a council, the relator may proceed by one motion against all of them. R.S.O. 1960, c. 249, s. 158.

Hearing of
motion

159. On the hearing of the motion, the relator shall not be allowed to object to the election of the person complained of or to

support the election of himself or of any person alleged to have been duly elected or to attack the right of any member to sit on any ground not specified in the notice of motion; but the judge may entertain any substantial ground of objection to or in support of the validity of the election of either or any of the parties that may appear in evidence before him. R.S.O. 1960, c. 249, s. 159; 1961-62, c. 86, s. 13.

160. Where more motions than one are made to try the validity of the election, or the right to sit of the same person, all of them shall be made returnable and, unless otherwise directed by a judge of the Supreme Court, shall be heard and determined by the judge before whom the motion, notice of which was first served, is returnable, and one order upon all or a separate order upon one or more of them may be made, as he considers proper. R.S.O. 1960, c. 249, s. 160; 1961-62, c. 86, s. 14.

Who to hear motions when more than one

161. The judge may require the clerk of any municipality to produce before him or to forward under seal to the clerk of the county or district court for the purpose of production such assessment rolls, collector's rolls, ballot papers, books, voters' and other lists, and other records of the election and papers in his hands connected with or relating to it as the judge considers proper. R.S.O. 1960, c. 249, s. 161; 1961-62, c. 86, s. 15.

Requiring clerk to attend with rolls, voters' lists, etc.

162. Where the motion is returnable before a judge of the Supreme Court, he may direct that the evidence to be used on the hearing of the motion be taken orally in the presence of counsel for or after notice to all parties interested before a special examiner or a judge of a county or district court, who shall return the evidence so taken to the proper officer of the Supreme Court. R.S.O. 1960, c. 249, s. 162.

Taking of evidence to be used on motion

163.—(1) The judge, at any stage of the proceedings, may,

- (a) add the returning officer or any deputy returning officer or other person as a party to the proceedings; and
- (b) allow any person entitled to be a relator to intervene and prosecute, or to defend, and may grant a reasonable time for that purpose. R.S.O. 1960, c. 249, s. 163 (1); 1961-62, c. 86, s. 16.

Adding parties, etc.

(2) An intervening party is liable for or entitled to costs like any other party to the proceedings. R.S.O. 1960, c. 249, s. 163 (2).

Costs

164.—(1) The judge shall, in a summary manner, without formal pleadings, hear and determine the questions raised by or upon the motion and, subject to subsection 2, may inquire into the facts on affidavit, by oral testimony, or by an issue framed by him and sent to be tried by a jury in any court named by him, or

Mode of trial

by one or more of those means. R.S.O. 1960, c. 249, s. 164 (1); 1961-62, c. 86, s. 17 (1).

Evidence
of corrupt
practice to
be taken
orally

(2) Where a question is raised as to whether the candidate or any voter has been guilty of any contravention of sections 178 to 180, affidavit evidence shall not be used to prove the offence, but it shall be proved by oral evidence taken before the judge or before a special examiner or a judge of a county or district court, upon an order of reference to him for that purpose by the judge of the Supreme Court, if the motion is returnable before a judge of the Supreme Court, or the judge of the county or district court if the motion is returnable before him. R.S.O. 1960, c. 249, s. 164 (2); 1961-62, c. 86, s. 17 (2).

Striking
off votes

(3) Where the seat is claimed for any person, if a candidate is proved to have been guilty, himself or by any person on his behalf, of bribery or of a corrupt practice with respect to a voter who voted at the election, there shall be struck off the number of votes given for such candidate one vote for every such voter. R.S.O. 1960, c. 249, s. 164 (3).

If election
invalid,
order for
removal
of person
not duly
elected, etc.

165.—(1) Where the election complained of is adjudged to be invalid, the order shall provide that the person found not to have been duly elected be removed from the office and, if it is determined that any other person was duly elected, that he be admitted forthwith to the office.

Order for
new election

(2) Where it is determined that no other person was duly elected, or that a person duly elected has become disqualified or has forfeited his seat, the order shall provide for the removal from office of such last-mentioned person and for the holding of a new election. R.S.O. 1960, c. 249, s. 165, *amended*.

Order for
new elec-
tion to be
directed to
clerk or
sheriff

166. Where the election of all the members of a council is adjudged to be invalid, or where it is determined that all of them have become disqualified or have forfeited their seats, the order for their removal, and for the election of new members in their places or for the admission of others adjudged to be legally elected, and for an election to fill the remaining seats in the council, shall be directed to the clerk of the municipality or, where there is no clerk, to the sheriff of the county or district in which the municipality is situate, who has all the powers for causing the election to be held that a municipal council or any member or officer of it has in order to fill a vacancy in it. R.S.O. 1960, c. 249, s. 166.

Where
election
invalid

167.—(1) Where an election is adjudged to be invalid owing to the improper refusal of the returning officer or of a deputy returning officer to receive a ballot paper tendered by or to give a ballot paper to an elector, or owing to such officer having put into

the ballot box a ballot paper that was not lawfully received from an elector, the judge may order that the costs of the proceedings to unseat the person declared elected, or any part of them, be paid by such returning officer or deputy returning officer. R.S.O. 1960, c. 249, s. 167 (1); 1961-62, c. 86, s. 18.

(2) Nothing in this section affects any right of action against the returning officer or deputy returning officer or relieves him from any penalty to which he may be liable under this Act. R.S.O. 1960, c. 249, s. 167 (2). Right of action against officers preserved

168.—(1) After the adjudication, an order shall be drawn up, stating concisely the ground and effect of the decision. R.S.O. 1960, c. 249, s. 168 (1). Order

(2) The order may be at any time amended by the judge in any matter of form, and has the same force and effect as a writ of mandamus formerly had in the like case. R.S.O. 1960, c. 249, s. 168 (2); 1961-62, c. 86, s. 19. Amendment of order

169. The judge forthwith after rendering his decision shall return the same with all things had before him touching the proceeding to the proper officer of the court, there to remain of record as a judgment of the court, and the judgment may be enforced for the costs awarded by execution and in other respects in the same manner as an order of mandamus. R.S.O. 1960, c. 249, s. 169; 1961-62, c. 86, s. 20. Judgment to be returned to proper officer of court

170.—(1) The decision of a judge of the Supreme Court is final, but an appeal lies from the decision or order of a judge of a county or district court to a judge of the Supreme Court whose decision is final. R.S.O. 1960, c. 249, s. 170 (1); 1961-62, c. 86, s. 21. Appeals from county judge

(2) The practice and procedure on and in relation to the appeal shall be the same, as nearly as may be, as in the case of an appeal from a decision of the master in an action or proceeding in the Supreme Court. R.S.O. 1960, c. 249, s. 170 (2). Procedure on appeal

171.—(1) A candidate elected who is found to have been guilty of bribery, or of a corrupt practice, forfeits his seat, and is ineligible as a candidate at any election for two years thereafter. R.S.O. 1960, c. 249, s. 171 (1). Disqualification of candidate guilty of corrupt practice

(2) The judge shall report to the clerk of the municipality in which the offence was committed the name of every candidate who has been so found guilty, and the clerk shall enter his name in a book to be kept for that purpose. R.S.O. 1960, c. 249, s. 171 (2); 1961-62, c. 86, s. 22. Report to be made to clerk

DISCLAIMER

Disclaimer
before
complaint

172. Any person elected may at any time after the election, and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect:

*"I, A.B., hereby disclaim all right to the office of
.....for the.....of
....., in the county (or
district) of....., and all defence of any right I
may have to the same.*

*Dated.....day of....., 19....
A.B."*

R.S.O. 1960, c. 249, s. 172.

When
defendant
may dis-
claim

173. A person whose election is complained of, unless it is complained of on the ground of bribery or corrupt practices on his part, or a person whose seat is attached on the ground that he has become disqualified or has forfeited his seat, may, within one week after service on him of the notice of motion, transmit by registered mail, or deliver, if the proceedings are in the Supreme Court, to the Registrar of the Supreme Court of Ontario, at Osgoode Hall, Toronto, or if the proceedings are in a county or district court to the judge of that court, and to the relator or his solicitor, a disclaimer signed by him to the following effect:

*"I, A.B., upon whom a notice of motion, in the nature of
a quo warranto, has been served for the purpose of contest-
ing my right to the office of.....
for the.....of....., in the county (or
district) of....., hereby disclaim the
office, and all defence of any right I may have to the same.*

*Dated.....day of....., 19....
A.B."*

R.S.O. 1960, c. 249, s. 173.

Duplicate of
disclaimer
to be
delivered
to clerk

174. A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council. R.S.O. 1960, c. 249, s. 174.

Disclaimer
to operate
as resigna-
tion
Costs

175.—(1) A disclaimer in accordance with section 172 or 173 operates as a resignation.

(2) A disclaimer in accordance with section 172 relieves the person making it from all liability for costs.

(3) Costs shall not be awarded against a person disclaiming under section 173, unless he consented to his nomination or accepted the office. R.S.O. 1960, c. 249, s. 175.

When costs
not to be
awarded

RULES OF PRACTICE

176. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules regulating the practice and procedure in relation to proceedings under this Part, including the costs of and incidental to them, and as to matters not provided for in this Part, or by rules of court, the practice and procedure of the Supreme Court shall be applicable. R.S.O. 1960, c. 249, s. 176.

Rules Com-
mittee to
make rules,
etc.

177. Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, whether or not the seat is claimed by or on behalf of the relator or any other person, and proceedings to have the right of a person to sit in a council determined shall be had and taken under the provisions of this Part and not by *quo warranto* proceedings or by an action in any court. R.S.O. 1960, c. 249, s. 177.

Procedure
substituted
for *quo*
warranto
proceedings

PART V

BRIBERY AND CORRUPT PRACTICES

- 178.**—(1) Every person who,
- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or
 - (b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or

Bribery;

bribing
voter or
procuring
bribery by
money

by gift or
offer or
promise of
employment

to induce
anyone to
procure
return of
candidate
or endeavour
to procure

- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any voter at an election; or

receiving
bribe to
procure
return of
candidate

- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any voter at an election; or

advancing
money to
be spent
in corrupt
practices

- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or

applying
for money
or employ-
ment in
considera-
tion of
voting

- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate or to his agent for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or

receiving
money,
office, etc.,
for having
voted

- (g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or

receiving
money cor-
ruptly after
election

- (h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or

giving or
promising
office to
candidate
to stand or
withdraw

- (i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person,

is guilty of bribery, is disqualified from voting at any election for two years, and on summary conviction is liable to a fine of \$200, or to imprisonment for a term of not more than six months, or to both.

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate or any agent in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act. R.S.O. 1960, c. 249, s. 178.

Personal
expenses of
candidate

179.—(1) A candidate who himself or by any other person on his behalf and every other person who,

Conveying
voters to
poll

- (a) hires or promises to pay or pays for a conveyance to carry a voter to or near or from or on the way to or from a polling place; or
- (b) pays the travelling or other expenses of a voter in going to or returning from a polling place,

and every person who for a valuable consideration provides or furnishes a conveyance knowing that it is to be used to carry a voter other than the hirer to or near or from or on the way to or from a polling place is guilty of a corrupt practice and on summary conviction is liable to a fine of \$100, and, if a voter, is disqualified from voting at the election; but this subsection does not apply to the carrying of voters to the poll in a conveyance used by the candidate personally on polling day.

(2) Every person who provides or furnishes transportation free of charge or at a diminished rate to a voter to or near or from or on the way to or from a polling place, and whether passes or tickets or the like are or are not supplied, is guilty of a corrupt practice and on summary conviction is liable to a fine of \$100, and, if a voter, is disqualified from voting at the election.

Furnishing
transportation to
voters

(3) Except as provided in subsection 1, nothing in this Act renders it unlawful for any person to provide his own private vehicles for the purpose of taking voters to and from the poll free of charge.

Exception as
to private
vehicles

(4) For the purposes of this section, "conveyance" includes a horse, team, carriage, cab, vehicle, boat or vessel. R.S.O. 1960, c. 249, s. 179.

Interpre-
tation

180.—(1) Every person who, directly or indirectly, himself or by any other person on his behalf, uses or threatens to use force, violence or restraint, or inflicts or threatens to inflict injury, damage, harm or loss, or in any manner practises intimidation

Undue
influence

upon or against a voter in order to induce or compel him to vote or refrain from voting, or an account of his having voted or refrained from voting, or who, by abduction, duress, or false or fraudulent pretence, device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter, or thereby compels, induces or prevails upon a voter to vote or refrain from voting, is guilty of a corrupt practice and is disqualified from voting for two years and on summary conviction is liable to a fine of \$200 or to imprisonment for a term of not more than one year, or to both.

Pretence,
that ballot
not secret

(2) It is a false pretence within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret. R.S.O. 1960, c. 249, s. 180.

Posting of
provisions
as to corrupt
practices

181. The clerk shall furnish every deputy returning officer with at least two copies of sections 178 to 180, and the deputy returning officer shall post them in conspicuous places at the polling place. R.S.O. 1960, c. 249, s. 181.

Witnesses
not excused
from
answering
on ground
of privilege,
etc.

182.—(1) No person is excused from answering any question put to him in an action or proceeding touching or concerning an election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege or on the ground that the answer will tend to criminate him or subject him to any penalty under this Act.

Answers of
witness not
to be used
against him
if judge
gives cer-
tificate

(2) No answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate him or subject him to any penalty under this Act, shall be used in any proceeding thereunder against such person, if the judge or officer before whom he is examined gives to the witness a certificate that he claimed the right to be excused on either of such grounds, and made full and true answer to the satisfaction of the judge. R.S.O. 1960, c. 249, s. 182.

WHEN NO PENALTY RECOVERABLE

When
penalty for
corrupt
practice
not to be
recoverable

183. No pecuniary penalty is recoverable for bribery or a corrupt practice if it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted such other person or persons or any of them for the offence; but this provision does not apply if the judge before whom the person claiming the benefit of it is charged certifies that it clearly appears to him that the person so charged took the first step towards the commission of the offence and that he was in fact the principal offender. R.S.O. 1960, c. 249, s. 183.

PART VI

MEETINGS OF MUNICIPAL COUNCILS

FIRST MEETING OF COUNCIL

184.—(1) The first meeting of the council of a local municipality after an annual or biennial election, as the case may be, shall be held on the second Monday in January at 11 o'clock in the forenoon or at such hour as may be fixed by by-law, or on such day prior to the second Monday in January and at such hour as may be fixed by by-law. R.S.O. 1960, c. 249, s. 184 (1); 1962-63, c. 87, s. 8.

First meeting of council, local municipality

(2) The first meeting of the council of a county shall be held on the third Tuesday in January at 2 o'clock in the afternoon or at such hour as may be fixed by by-law, or on such day prior to the third Tuesday in January and at such hour as may be fixed by by-law.

county

(3) No business shall be proceeded with at the first meeting until after the declarations of office have been made by all the members who present themselves for that purpose.

Declarations of office before business

(4) A council shall be deemed to be organized within the meaning of this Act when the declarations of office have been made by a majority of the members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to make such declarations. R.S.O. 1960, c. 249, s. 184 (2-4).

When council deemed organized

185. A member of a county council shall not take his seat until he has filed with the clerk of the county council a certificate (Form 19) under the hand of the clerk of the municipality for which he was elected and the seal of the corporation. R.S.O. 1960, c. 249, s. 185.

Certificate of election

186.—(1) In each year at the first meeting of a county council at which a majority of all the members is present, they shall organize as a council and elect one of the members to be warden.

Warden, election

(2) The clerk shall preside or, if there is no clerk, the members present shall select a member to preside, and the person so elected may vote as a member.

Clerk to preside

(3) Subject to subsection 4 and to section 197, the warden shall be elected in the manner provided by resolution of the council passed prior to the election.

Conduct of election

(4) In case of an equality of votes, the reeve or, in his absence, the deputy reeve of the municipality which for the preceding year had the largest equalized assessment shall have a second or casting vote. R.S.O. 1960, c. 249, s. 186.

Case of equality of votes

PLACE OF MEETING

Place of
first meeting
of county
council

187. The first meeting of a county council shall be held at the county hall if there is one and, if there is none, at the court house. R.S.O. 1960, c. 249, s. 187.

Subsequent
meetings

188. The subsequent meetings of the county council and all meetings of every other council shall be held at such place as the council from time to time appoints. R.S.O. 1960, c. 249, s. 188.

Location
of offices,
county

189.—(1) The council of a county in which an urban municipality lies may hold its meetings, keep its public offices and transact all the business of the corporation and of its officers and servants within such municipality and may acquire or rent and hold such real estate therein and erect such buildings thereon as may be convenient for such purpose.

township

(2) The council of a township has the like power in respect of an adjacent urban municipality or township in the same county. R.S.O. 1960, c. 249, s. 189.

Open
meetings

R.S.O. 1970,
c. 118

190.—(1) The meetings, except meetings of a committee including a committee of the whole, of every council and of every local board as defined by *The Department of Municipal Affairs Act*, except boards of commissioners of police and school boards, shall be open to the public, and no person shall be excluded therefrom except for improper conduct. 1960-61, c. 59, s. 4.

Exclusion
of certain
persons

(2) The head or other presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. R.S.O. 1960, c. 249, s. 190 (2).

Quorum

191.—(1) A majority of the whole number of members required to constitute a council is necessary to form a quorum.

Where
council
consists
of five
members

(2) Where a council consists of only five members, the concurrent votes of at least three of them is necessary to carry any resolution or other measure. R.S.O. 1960, c. 249, s. 191.

Head of
council to
preside

192.—(1) The head of the council shall preside at all meetings of the council.

Special
meeting

(2) The head of the council may at any time summon a special meeting, and upon receipt of the petition of the majority of the members of the council the clerk shall summon a special meeting for the purpose and at the time mentioned in the petition. R.S.O. 1960, c. 249, s. 192.

Place of
special
meeting

193. If there is no by-law or resolution fixing the place of meeting, a special meeting shall be held at the place where the then last meeting was held, and a special meeting may be either open or closed as in the opinion of the council, expressed by

resolution in writing, the public interest requires. R.S.O. 1960, c. 249, s. 193.

194. In the absence of the head of the council, or if his office is vacant, or if he refuses to act, the council may, from among the members, appoint a presiding officer who, during such absence or vacancy or refusal to act, has all the powers of the head of the council. R.S.O. 1960, c. 249, s. 194.

Appointment of presiding officer in absence of head

195. If the person who ought to preside at any meeting does not attend within fifteen minutes after the hour appointed, the members present may appoint a presiding officer from among themselves, and he has the same authority as the absent person would have had if present. R.S.O. 1960, c. 249, s. 195.

Casual absence of presiding officer

196. The head of the council, or the presiding officer, except where he is disqualified to vote by reason of interest or otherwise, may vote with the other members on all questions, and, except where otherwise expressly provided by this Act, any question on which there is an equality of votes shall be deemed to be negatived. R.S.O. 1960, c. 249, s. 196.

Head or presiding officer may vote; equality of votes

197.—(1) Except where he is disqualified to vote by reason of interest or otherwise, where a division is taken upon the election of a warden or other presiding officer, upon the appointment of an officer of the corporation or upon a by-law, resolution or for any other purpose, each member present shall announce his vote openly and individually, and the clerk shall record it. R.S.O. 1960, c. 249, s. 197 (1); 1960-61, c. 59, s. 5.

Voting to be open and to be recorded

(2) No vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of no effect. R.S.O. 1960, c. 249, s. 197 (2).

No vote by ballot

198. No member of a council shall vote on any by-law appointing him to any office in the gift of the council or fixing or providing his remuneration for any service to the corporation, but this does not apply to allowances for attendance at meetings of the council or its committees or to annual allowances to members of council. R.S.O. 1960, c. 249, s. 198; 1965, c. 77, s. 13.

Prohibition as to member voting to appoint himself to office

199.—(1) If a member of a council or of a local board as defined in *The Department of Municipal Affairs Act* has any pecuniary interest, direct or indirect, in any contract or proposed contract with the council or local board, as the case may be, or in any other matter in which the council or local board, as the case may be, is concerned and is present at a meeting of the council or local board, as the case may be, at which the contract, proposed contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose his interest and shall not take part in the consideration or

Disclosure of interest in contract R.S.O. 1970, c. 118

discussion of, or vote on any question with respect to, the contract, proposed contract or other matter.

Idem
R.S.O. 1970,
c. 118

(2) If the interest of a member of a council or of a local board as defined in *The Department of Municipal Affairs Act* has not been disclosed as required by subsection 1 by reason of his absence from the meeting referred to therein or by reason of such interest having been acquired subsequent to such meeting, he shall disclose such interest at the first meeting of such council or local board attended by him after the meeting referred to in subsection 1 or after acquiring such interest, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter.

Not
applicable
to interest
in certain
matters

(3) Subsection 1 does not apply to an interest in a contract, proposed contract or other matter that a member may have as a ratepayer or elector or as a user of any public utility service supplied to him by the council or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members of the council or local board, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

Effect of
failure to
disclose on
proceedings
of council

(4) The failure of one or more members of a council or local board to comply with subsection 1 does not invalidate the proceedings of such council or local board in respect of the contract, proposed contract or other matter mentioned in subsection 1.

Recording
of
disclosure

(5) Every disclosure of interest at a meeting shall be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the local board, as the case may be.

Recording
of non-
disclosure

(6) Where it appears at any meeting that a disclosure of interest that should have been made at the meeting or at any previous meeting was not made, the fact that the disclosure of interest was not made shall be recorded in the minutes of the meeting by the clerk of the municipality or local board, as the case may be. 1960-61, c. 59, s. 6.

Where
exception
from dis-
qualification
does not
apply

(7) Where a member of a council or local board as defined in *The Department of Municipal Affairs Act*, being under a duty to disclose his interest and to refrain from the consideration or discussion of or voting on any question under subsection 1, fails to disclose his interest or to refrain from the consideration or discussion of or voting on such question, he is not entitled to exemption from disqualification under clauses *a, b, d* and *l* of subsection 3 of section 36. 1961-62, c. 86, s. 23.

Application
of ss. 198,
199 re
filling of
vacancies

200. Sections 198 and 199 do not apply to the election or appointment of a member of council to fill a vacancy, office or position in the council or in any local board as defined by *The*

Department of Municipal Affairs Act when the council is empowered or required by any general or special Act to fill such vacancy, office or position. 1961-62, c. 86, s. 24. R.S.O. 1970, c. 118

201. A council may adjourn its meetings from time to time. Adjournment
R.S.O. 1960, c. 249, s. 199.

202. The council of a county may by by-law provide that a member who in council has an additional vote by virtue of subsection 2 of section 27 shall as a member of any committee have an additional vote therein. Voting of county councillors in committee
R.S.O. 1960, c. 249, s. 200.

PART VII

BOARDS OF CONTROL

203.—(1) Subject to subsection 2, in cities having a population of not less than 100,000, there shall be a board of control consisting of the mayor and four controllers to be elected by general vote. In cities of not less than 100,000
R.S.O. 1960, c. 249, s. 201; 1961-62, c. 86, s. 25 (1).

(2) The council of a city having a population of not less than 100,000 may, by an affirmative vote of two-thirds of all the members of the council, pass a by-law providing that the city shall not have a board of control. City may dispense with board of control

(3) No by-law passed under subsection 2 shall come into force without the approval of the Municipal Board. Approval of Municipal Board
1961-62, c. 86, s. 25 (2).

204.—(1) In cities or towns having a population of not less than 45,000 and in other local municipalities having a population of not less than 100,000, the council may, by an affirmative vote of two-thirds of all the members of the council, pass a by-law, In cities or towns of not less than 45,000 and other local municipalities of not less than 100,000

- (a) where the council, excluding the head of council, reeve and deputy reeve, consists of ten or more members, providing that there shall be a board of control consisting of the head of council and four controllers to be elected by general vote; or
- (b) where the council, excluding the head of council, reeve and deputy reeve, consists of less than ten members, providing that there shall be a board of control consisting of the head of council and two controllers to be elected by general vote; or
- (c) where the council of a municipality has passed a by-law or by-laws providing that the council shall consist of ten or more members to be elected at the next election of members of the council, providing that, commencing with the first year in which the enlarged council holds

office, there shall be a board of control consisting of the head of council and four controllers to be elected by general vote. 1961-62, c. 86, s. 26, *part*; 1964, c. 68, s. 4; 1965, c. 77, s. 14.

Approval of
Municipal
Board

(2) No by-law passed under subsection 1 or a by-law that repeals a by-law passed under subsection 1 comes into force without the approval of the Municipal Board.

Composition
of council

(3) Notwithstanding any other provision in this Act, where the council of a municipality provides that there shall be a board of control in the municipality, the council shall be composed of such members, except a reeve who is not the head of council and a deputy reeve, as are otherwise provided in this Act together with the members of the board of control.

County rep-
resentation

(4) For the purpose of representation on county council,

(a) in the case of a town,

(i) the controller who at the municipal election next preceding the organization of the county council received the highest number of votes shall be deemed to be the reeve of the town, and

(ii) the controller who at such election received the second highest number of votes shall be deemed to be the deputy reeve of the town; and

(b) in the case of any other local municipality that is entitled to a deputy reeve, the controller who at the municipal election next preceding the organization of the county council received the highest number of votes shall be deemed to be the deputy reeve of the local municipality; and

(c) where because of a tie vote it cannot be ascertained which controller received the highest or second highest number of votes or where one or more of the controllers is elected by acclamation, the controller who shall be deemed to be reeve or deputy reeve, as the case may be, shall be determined by resolution of council. 1961-62, c. 86, s. 26, *part*.

Salaries of
members

205. The council of a municipality having a board of control may by by-law fix the salaries of the members of the board. R.S.O. 1960, c. 249, s. 203 (1); 1961-62, c. 86, s. 27; 1968, c. 76, s. 11.

Presiding
officer to
act in
absence of
head of
council

206. During the absence of the head of council or if there is a vacancy in the office, the person appointed as presiding officer of the council shall act as a member of the board. R.S.O. 1960, c. 249, s. 204; 1961-62, c. 86, s. 28.

207.—(1) A majority of the members of a board of control is a quorum, and the head of council shall preside at the meetings of the board, and, in his absence, the members shall appoint one of their number to preside. 1961-62, c. 86, s. 29. Quorum,
head of
council
to preside

(2) If a vacancy occurs in the office of controller, the council, at a meeting called for that purpose, shall appoint a person to fill the vacancy for the unexpired term of the member whose seat has become vacant. R.S.O. 1960, c. 249, s. 205 (2); 1967, c. 55, s. 8. Filling
vacancies

208.—(1) It is the duty of the board of control,

- (a) to prepare estimates of the proposed expenditure of the year and certify them to the council for its consideration; Duties of
board:
to prepare
estimates
- (b) to prepare specifications for and award all contracts and for that purpose to call for all tenders for works, material, and supplies, implements, machinery, or other goods or property required and that may lawfully be purchased for the use of the corporation, and to report its action to the council at its next meeting; to award
contracts
- (c) to inspect and report to the council monthly or oftener upon all municipal works being carried on or in progress; to inspect
municipal
works
- (d) to nominate to the council all heads of departments and sub-departments in case of a vacancy and, after a favourable report by the head of the department, any other officer of the corporation required to be appointed by by-law or resolution of the council, and any other permanent officers, clerks or assistants, and to recommend the salaries of all officers and clerks. R.S.O. 1960, c. 249, s. 206 (1); 1967, c. 55, s. 9 (1). to nominate
officers of
corporation

(2) The board of control may dismiss or suspend any head of a department and shall forthwith report such dismissal or suspension to the council. 1967, c. 55, s. 9 (2). Dismissal
of depart-
ment heads

(3) The council shall not appropriate or expend, nor shall any officer thereof expend or direct the expenditure of any sum not provided for by the estimates or by a special or supplementary estimate certified by the board to the council, without a two-thirds vote of the council authorizing such appropriation or expenditure, but this prohibition does not extend to the payment of any debenture or other debt or liability of the corporation. Appropri-
ation and
expenditure

(4) When opening tenders, the board shall require the presence of the head of the department or sub-department with which the subject-matter of them is connected and, when requisite, the presence of the city solicitor. Head of de-
partment to
be present
when tenders
are opened

(5) The head of such department or sub-department may take part in any discussion at the board relating to the tenders. Discussion
as to
tenders

Reversal
by council
of action
of board

(6) The council shall not without a two-thirds vote reverse or vary the action of the board in respect of the tenders, when the effect of such vote would be to increase the cost of the work or to award the contract to a tender other than the one to whom the board has awarded it.

Appoint-
ment of
head of
department
on nomina-
tion of
board

(7) No head of a department or sub-department or other permanent officer, clerk or assistant shall be appointed or selected by the council in the absence of the nomination of the board as provided by clause *d* of subsection 1, without a two-thirds vote.

Reinstatement
of dismissed
head

(8) Where the head of a department has been dismissed by the board, he shall not be reappointed or reinstated by the council without a two-thirds vote.

Controlling
appointment
and duties of
subordinate
officers

(9) In the absence of a by-law of the council prescribing the mode of appointing, engaging or employing any officers, clerks, assistants, employees, servants and workmen not included in clauses *d* and *e* of subsection 1, the board may direct by whom and in what manner they shall be appointed, engaged or employed.

Submission
of by-laws,
etc.

(10) The board may submit proposed by-laws to the council.

Amalgama-
tion of de-
partments

(11) The board, where in its opinion it is desirable, may amalgamate departments or sub-departments.

Secretary
of board

(12) The board may appoint a secretary or clerk who shall keep minutes of its proceedings, prepare its reports and perform such other duties as may be assigned to him by the board or by the mayor or the council.

Other duties
assigned by
council

(13) The council may by by-law or resolution assign to the board such other duties as the council considers proper.

Copies of
minutes,
when to be
furnished
to council

(14) The board, when so required by resolution of the council, and upon one week's notice thereof, shall furnish to the council copies of the minutes of its proceedings and any other information in its possession that the council may require.

Referring
matter back
for recon-
sideration

(15) The council may refer back to the board any report, nomination, question or matter for reconsideration.

Recording
votes on
action of
board

(16) Where it is sought in council to reverse, set aside or vary the action of the board, or where a two-thirds vote is required, the vote by yeas and nays shall be recorded in the minutes of the council.

School
boards to
send in
estimates

(17) The public, secondary and separate school boards, the board of education, the board of commissioners of police and the public library board and every other board, whose estimates are to be provided for, shall furnish their annual estimates to the board on or before the 1st day of March in each year. R.S.O. 1960, c. 249, s. 206 (2-16).

(18) Clause *d* of subsection 1 does not apply to a member of the fire department, except the head of it, or to a representative of the council upon the board of a harbour trust, or of a corporation on the board of which the council is entitled to elect a representative. 1968-69, c. 74, s. 5.

Certain officers not to be nominated by board

(19) Notwithstanding any other provision in this Act, the duties assigned to the board shall be discharged exclusively by the board, except in the case mentioned in subsection 10. R.S.O. 1960, c. 249, s. 206 (19).

Exclusive rights of board

PART VIII

OFFICERS OF MUNICIPAL CORPORATIONS

THE HEAD

209.—(1) The warden of a county, the mayor of a city or town and the reeve of a village or township is the head of the council and the chief executive officer of the corporation.

Who to be head of council

(2) When the head of the council is absent from the municipality or absent through illness or his office is vacant, the council may by resolution appoint one of its members to act in his place and stead and, while so acting, such member has and may exercise all the rights, powers and authority of the head of the council.

Acting head of council

(3) The council of any municipality may by by-law appoint a member of the council to act from time to time in the place and stead of the head of the council when the head of the council is absent from the municipality or absent through illness or his office is vacant and, while so acting, such member has and may exercise all the rights, powers and authority of the head of the council. R.S.O. 1960, c. 249, s. 210.

Idem

210. It is the duty of the head of the council,

Duties of head of council

- (a) to be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed;
- (b) to oversee the conduct of all subordinate officers in the government of it and, as far as practicable, cause all negligence, carelessness and violation of duty to be prosecuted and punished; and
- (c) to communicate to the council from time to time such information and recommend to it such measures as may tend to the improvement of the finances, health, security, cleanliness, comfort and ornament of the municipality. R.S.O. 1960, c. 249, s. 211.

211. The head of the council may be paid such annual or other remuneration as the council may determine. R.S.O. 1960, c. 249, s. 212.

Remuneration of head

Mayor may
call out
posse comitatus

212. The mayor of a city or town may call out the *posse comitatus* to enforce the law within the municipality under the same circumstances in which the sheriff of a county may now by law do so. R.S.O. 1960, c. 249, s. 213.

Substitute
for head of
council as
ex officio
member of
boards, etc.

213. The council of any municipality may by by-law, passed with the written consent of the head of the council, appoint a member of the council to act in the place of the head of the council on any board, commission or other body of which the head of the council is a member *ex officio* under any general or special Act, except a board of commissioners of police. R.S.O. 1960, c. 249, s. 214.

CHIEF ADMINISTRATIVE OFFICER

Chief
Administra-
tive
officer

214. The council may by by-law appoint a chief administrative officer, who,

- (a) shall have such general control and management of the administration of the government and affairs of the municipal corporation and perform such duties as the council by by-law prescribes; and
- (b) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law. 1970, c. 135, s. 1.

THE CLERK

Appoint-
ment of
clerk, and
his duties

215.—(1) The council shall appoint a clerk, whose duty it is,

- (a) to truly record in a book, without note or comment, all resolutions, decisions and other proceedings of the council;
- (b) if required by any member present, to record the name and vote of every member voting on any matter or question;
- (c) to keep the books, records and accounts of the council;
- (d) to preserve and file all accounts acted upon by the council;
- (e) to keep in his office or in the place appointed for that purpose the originals of all by-laws and of all minutes of the proceedings of the council;
- (f) to perform such other duties as may be assigned to him by council.

Deputy
clerk

(2) The council may appoint a deputy clerk who shall have all the powers and duties of the clerk under this and every other Act.

Acting
clerk

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties through illness or otherwise, the council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk under this and every other Act. R.S.O. 1960, c. 249, s. 215.

(4) Notwithstanding subsection 1, on the request of the Archivist of Ontario, the council may permit the originals of by-laws no longer in force or the operation of which is spent or of minutes of the proceedings of the council to be kept by the Archivist instead of the clerk, provided that a photographic copy of all such documents is kept by the clerk. 1966, c. 93, s. 11.

Original
by-laws kept
by Archivist

216.—(1) Except as otherwise provided in any Act, any person, at all reasonable hours, may inspect any records, books, accounts and documents in the possession or under the control of the clerk, except inter-departmental correspondence and reports of officials of any department or of solicitors for the corporation made to council, board of control or any committee of council, and the clerk within a reasonable time shall furnish copies of them or extracts therefrom certified under his hand to any applicant on payment at the rate of 10 cents for every 100 words or such other rate as the council may fix. R.S.O. 1960, c. 249, s. 216 (1).

Inspection
of records,
books, etc.,
in possession
of clerk

(2) The clerk shall keep an index book in which he shall enter the number and date of,

Index of
restricted
area by-laws,
etc.

- (a) every subsisting by-law heretofore passed under section 35 of *The Planning Act* or a predecessor of that section;
- (b) every by-law hereafter passed under section 35 of *The Planning Act*; and
- (c) every other subsisting by-law, and every other by-law hereafter passed, that affects land but does not directly affect the title to land. R.S.O. 1960, c. 249, s. 216 (2); 1960-61, c. 59, s. 7.

R.S.O. 1970,
c. 349

(3) A copy of any record, book or document in the possession or under the control of the clerk purporting to be certified under his hand and under the seal of the corporation may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. R.S.O. 1960, c. 249, s. 216 (3); 1965, c. 77, s. 15.

Copies certi-
fied by
clerk to be
receivable
in evidence

217.—(1) The clerk of every municipality shall in each year within the time prescribed by the Department make a return to the Department on forms provided by it of such information and statistics with respect to the financial affairs, accounts and transactions of the municipality as the Department may prescribe, and every such return shall be transmitted by registered mail.

Clerks'
returns to
Department

(2) For every contravention of this section, the clerk is guilty of an offence and on summary conviction is liable to a fine of not more than \$40.

Offence

Returns by
Department

(3) The Department shall cause to be prepared annually a tabulated statement of the returns which shall be laid before the Assembly. R.S.O. 1960, c. 249, s. 217.

THE TREASURER

Treasurer

218.—(1) The council shall appoint a treasurer.

Deputy
Treasurer

(2) The council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer under this and every other Act.

Acting
treasurer

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties through illness or otherwise, the council may appoint an acting treasurer *pro tempore* who shall have all the powers and duties of the treasurer under this and every other Act. R.S.O. 1960, c. 249, s. 218.

Appoint-
ment of
county
treasurer
pro tem

219.—(1) In case of the death of the treasurer of a county, the warden may, by warrant under his hand, appoint for such special purpose as he considers necessary a treasurer *pro tempore*, who shall hold office until the next meeting of the council, and all acts authorized by the warrant that are performed by him are as valid and binding as if performed by a treasurer.

Security to
be given

(2) The warden shall, by the warrant, direct that security within the meaning of subsection 2 of section 233 shall be given by the treasurer *pro tempore* for the faithful performance of his duties and for duly accounting for and paying over all money that comes into his hands, and before entering upon his duties he shall give such security, but he shall not interfere with the books, vouchers or accounts of the deceased treasurer until a proper audit of them has been made. R.S.O. 1960, c. 249, s. 219.

To receive
and take
care of and
disburse
money, etc.

220.—(1) The treasurer shall receive and safely keep all money of the corporation, and shall pay out the same to such persons and in such manner as the laws of Ontario and the by-laws or resolutions of the council direct, and every cheque issued by the treasurer shall be signed by the treasurer and by some other person designated for the purpose by by-law or resolution of the council and such other person before signing a cheque shall satisfy himself that the issue thereof is authorized.

Persons
authorized
to sign
cheques

(2) Notwithstanding subsection 1,

- (a) the council of a local municipality having a population of less than 5,000 and the council of a county may provide that cheques issued by the treasurer may be signed by the treasurer only; and
- (b) the council of any other municipality may designate one or more persons to sign cheques in lieu of the treasurer.

(3) The council of any municipality may provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques. Methods of signing cheques

(4) The council of a municipality may by by-law provide that the treasurer may establish and maintain a petty cash fund of an amount of money sufficient to make change and to pay small accounts, subject to such terms and conditions as the by-law may provide. Petty cash fund

(5) Except where otherwise expressly provided by this Act, a member of the council shall not receive any money from the treasurer for any work or service performed or to be performed. When member of council may be paid for work

(6) The treasurer is not liable for money paid by him in accordance with a by-law or resolution of the council, unless another disposition of it is expressly provided for by statute. His liability limited
R.S.O. 1960, c. 249, s. 220.

221. Subject to subsection 4 of section 220, the treasurer shall, Bank accounts, etc.

- (a) open an account or accounts in the name of the municipality in such of the chartered banks of Canada or at such other place of deposit as may be approved by the council;
- (b) deposit all money received by him on account of the municipality, and no other money, to the credit of such account or accounts, and no other account; and
- (c) keep the money of the municipality entirely separate from his own money and from that of any other person,

and, notwithstanding subsection 1 of section 220, the council shall not by by-law or resolution direct any variance from the provisions of this section, nor shall the treasurer vary from such provisions. R.S.O. 1960, c. 249, s. 221.

222. Every treasurer shall prepare and submit to the council, half-yearly, a statement of the money at the credit of the corporation. Half-yearly statement of assets
R.S.O. 1960, c. 249, s. 222.

223.—(1) The treasurer of every municipality shall in each year within the time prescribed by the Department make a return to the Department on forms provided by it of such information and statistics with respect to the financial affairs, accounts and transactions of the municipality as the Department may prescribe, and every such return shall be transmitted by registered mail. Treasurers' returns to Department

Offence

(2) For every contravention of this section, the treasurer is guilty of an offence and on summary conviction is liable to a fine of not more than \$40.

Returns by
Department

(3) The Department shall cause to be prepared annually a tabulated statement of the returns which shall be laid before the Assembly. R.S.O. 1960, c. 249, s. 223.

Publication
of financial
statement,
etc.

224.—(1) The treasurer of every local municipality in every year shall, within one month after receiving the audited financial statements of the municipality, cause to be published or to be mailed or delivered to each ratepayer a copy of the balance sheet or sheets and the corresponding statements of surplus as of the 31st day of December of the preceeding year and the statement of revenue and expenditure for the preceding year, all as certified by the auditor, or a summary thereof, in such form as the Department may prescribe, together with a copy of the report of the auditor.

Inclusion
with tax
notice

(2) Where a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy or summary and the report under subsection 1, include with such notice the copy or summary and the report.

Publication
of informa-
tion

(3) The council of a municipality may cause to be published in a newspaper having general circulation in the municipality or to be mailed or delivered to each ratepayer in the municipality such information concerning the activities of the municipality as, in the opinion of the council, would be of interest to the ratepayers. 1965, c. 77, s. 16.

Provision
on dismissal
from office

225. Where a treasurer is removed from office or absconds, the council shall forthwith give notice to his sureties, and his successor may draw any money of the corporation that may have been deposited by the treasurer to his credit. R.S.O. 1960, c. 249, s. 224.

COLLECTORS

Collectors,
appointment

226.—(1) The council of every local municipality shall appoint as many collectors for the municipality as it considers necessary.

Appoint-
ments need
not be
annual

(2) Every by-law appointing a collector remains in force until repealed, and it is not necessary to appoint the collector annually.

Duties

(3) The council may assign to a collector the district within which he is to act, and may make regulations governing him in the performance of his duties.

Jurisdiction

(4) The same person may be appointed collector for more than one ward or polling subdivision. 1968-69, c. 74, s. 6.

AUDITORS AND AUDIT

227.—(1) The council of every municipality shall by by-law appoint one or more auditors who shall be persons licensed by the Department as municipal auditors and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the council, and every person so appointed shall, in addition to his duties in respect of the corporation, audit the accounts and transactions of every local board as defined in *The Department of Municipal Affairs Act*, except school boards established under section 12 of *The Public Schools Act* or under subsection 1 or 2 of section 4, or Part IV of *The Secondary Schools and Boards of Education Act* or under Part IX of *The Regional Municipality of Ottawa-Carleton Act*, or under Part III of *The Separate Schools Act*. R.S.O. 1960, c. 249, s. 228 (1); 1965, c. 77, s. 18; 1968, c. 76, s. 12 (1); 1968-69, c. 74, s. 8 (1).

Appoint-
ment of
auditors

R.S.O. 1970,
cc. 118, 385,
425, 407,
430

(2) Where a local board is a local board of more than one municipality, the accounts and transactions thereof shall be audited by an auditor of the municipality that is liable for a larger portion of the operating costs of the local board than any other municipality, and, in the event of disagreement as to the proper auditor, the matter may be determined by the Department on the application of any municipality of which the local board in question is a local board. 1966, c. 93, s. 12.

Where
board is
local board
of more
than one
municipality

(3) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the municipality and charged back to the local board, and in the event of a dispute as to the amount of the cost the Department may upon application finally determine the amount thereof.

Cost of audit

(4) Every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory shall appoint one or more auditors and the provisions of this Act with respect to auditors apply *mutatis mutandis*. R.S.O. 1960, c. 249, s. 228 (3, 4).

Local
boards in
unorganized
territory

(5) Where by any other general or special Act, except Part IV of *The Secondary Schools and Boards of Education Act* and Part III of *The Separate Schools Act*, auditors are required to be appointed or elected by or for any authority within the meaning of this section, the exercise of such power is not mandatory, notwithstanding such Act. R.S.O. 1960, c. 249, s. 228 (5); 1968, c. 76, s. 12 (2); 1968-69, c. 74, s. 8 (2).

Provision
to avoid
duplication
of audits

(6) No person shall be appointed as an auditor of a municipality who is or during the preceding year was a member of the council or any local board of the municipality or of any other local

Disqualifi-
cation of
persons as
auditors

board the accounts and transactions of which it would as auditor be his duty to audit or who has or during the preceding year had any direct or indirect interest in any contract or any employment with the municipality or any of such local boards other than for services within his professional capacity. R.S.O. 1960, c. 249, s. 228 (6); 1960-61, c. 59, s. 8.

Case of
county
auditor
refusing
to act

(7) If a person appointed auditor for a county refuses or is unable to act, the head of the council shall appoint another person not in the employment of such head to be auditor in his stead. R.S.O. 1960, c. 249, s. 228 (7).

Duties of
auditor

228. An auditor shall perform such duties as are prescribed by the Department and also such duties as may be required by the council or any local board that do not conflict with the duties prescribed by the Department and shall prepare the material to be published by the treasurer under section 224. R.S.O. 1960, c. 249, s. 229; 1961-62, c. 86, s. 33.

Right of
access, etc.

229.—(1) The auditor of a municipality has right of access at all reasonable hours to all books, records, documents, accounts and vouchers of the municipality or any local board thereof, and is entitled to require from the members of council and local boards and from the officers of the municipality and its local boards such information and explanation as in his opinion may be necessary to enable him to carry out such duties as are prescribed by the Department.

Auditor
may take
evidence on
oath
R.S.O. 1970,
c. 379

(2) The auditor may require any person to give evidence on oath touching any of such matters and for such purpose has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

Auditor
may attend
meetings

(3) The auditor is entitled to attend any meeting of members of council or any local board of the municipality and to receive all notices relating to any such meeting that any member is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. R.S.O. 1960, c. 249, s. 230.

Audit of
accounts
before
payment

230. The council of any municipality may provide that all accounts shall be audited before payment. R.S.O. 1960, c. 249, s. 231.

The council
to audit
finally, etc.

231. The council shall, upon the report of the auditors, finally audit and allow the accounts of the treasurer and collectors, and all accounts chargeable against the corporation, and, where charges are not regulated by law, the council shall allow what is reasonable. R.S.O. 1960, c. 249, s. 232.

232. The Treasurer of Ontario may in his discretion retain in his hands any money payable to a corporation, if it is certified to him by the Department that any officer of the corporation whose duty it is to make returns to the Department has not done so. R.S.O. 1960, c. 249, s. 233.

Money payable by Province to be retained if returns not made

233.—(1) Every treasurer, deputy treasurer and collector and every other officer of the corporation, as the council may require, before entering on the duties of his office shall give annually such security as the council directs for the faithful performance of such duties and for duly accounting for and paying over all money that comes into his hands.

Security to be furnished by officers

(2) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company within the meaning of *The Guarantee Companies Securities Act* and shall be in such form and on such terms as the Department may approve.

Nature of security
R.S.O. 1970, c. 196

(3) It is the duty of the council, at a meeting held not later than the 15th day of February in every year with respect to those of its officers who continue in office from year to year and at the first meeting after his appointment with respect to any newly appointed officer, to require the production before it of every bond, policy or guarantee contract required under this section.

Inspection of surety bonds

(4) The council shall forthwith after the production thereof direct where and with whom the bonds, policies and guarantee contracts given under this section shall be deposited for safe keeping and where the same shall be available for inspection by the auditor, and the auditor shall in his annual report to the Department include such information with respect to the same as may be required by the Department.

Inspection and return as to security

(5) The premiums payable in respect of any bond, policy or guarantee contract given under this section is payable by the corporation out of its general funds.

Premiums

(6) The Department may upon examination of any return made to it for any municipality under this section report to the council with respect to matters arising out of the return, and as to the necessity for other officers, employees and servants furnishing security, and as to the sufficiency of security furnished as disclosed by the return.

Notices from Department as to surety bonds

(7) This section applies *mutatis mutandis* to the treasurer and every other officer as the board may require of a local board as defined in *The Department of Municipal Affairs Act*, except a school board, and to every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory, except a school board. R.S.O. 1960, c. 249, s. 234.

Local boards and authorities
R.S.O. 1970, c. 118

Publication
of state-
ments of
revenues
and ex-
penditures

234. The council of any municipality may, prior to the day fixed for holding nominations, publish a detailed statement signed by the head of the council and the treasurer of the revenues and expenditures for the current year in the form and manner prescribed by the Department. R.S.O. 1960, c. 249, s. 235.

DUTIES OF OFFICERS RESPECTING OATHS AND
DECLARATIONS

Declaration
of office
of members
of council,
etc.

235.—(1) Every member of a council, trustee of a police village and public utility commissioner, before entering on the duties of his office, shall make and subscribe a declaration of office (Form 20) and an oath of allegiance (Form 2). 1966, c. 93, s. 13, *part*; 1968, c. 76, s. 13.

Municipal
officers

(2) Every clerk, treasurer, collector, engineer, commissioner of industries, clerk of works and street overseer or commissioner, before entering on the duties of his office, shall make and subscribe a declaration of office (Form 21). 1966, c. 93, s. 13, *part*; 1968-69, c. 74, s. 9.

Declaration
of person
appointed to
more than
one office

(3) Every person elected or appointed to two or more municipal offices may make one declaration of office as to all of them. R.S.O. 1960, c. 249, s. 236 (2).

Oath of
office

(4) Every returning officer, deputy returning officer and poll clerk before entering upon the duties of his office shall take the oath of office (Form 22).

Administra-
tion of oaths
to deputy
returning
officers and
poll clerks

(5) Where by this Act any oath or declaration is required to be made by a deputy returning officer or by a poll clerk, and no special provision is made therefor, the oath or declaration, in the case of a deputy returning officer, may be made before the returning officer for the municipality or ward or before the poll clerk or before any person authorized to administer an oath, and, in the case of a poll clerk, before any such person or before the deputy returning officer.

Auditor's
declaration

(6) Every auditor, before entering upon his duties, shall make and subscribe a declaration (Form 23).

Filing of
declaration

(7) Except where otherwise provided, the person by whom the oath or declaration is made shall file it in the office of the clerk within eight days after it is made. R.S.O. 1960, c. 249, s. 236 (4-7).

Declaration
of office

236. Every qualified person elected to any municipal office shall take the declaration of office, where he is elected to fill a vacancy, within ten days after his election, and in other cases on or before the day fixed for holding the first meeting of the body to which he was elected, and in default he shall be deemed to have resigned. R.S.O. 1960, c. 249, s. 237.

SALARIES, TENURE OF OFFICE AND GRATUITIES

237.—(1) When the remuneration of any officer of a corporation is not fixed by law, the council shall fix it. R.S.O. 1960, c. 249, s. 238 (1). Salaries of officers

(2) The council shall give to the clerk for services and duties performed by him under *The Drainage Act* a fair and reasonable remuneration to be fixed by the council. R.S.O. 1960, c. 249, s. 238 (2), *amended*. Remuneration of clerk for certain services
R.S.O. 1970, c. 136

(3) The council shall fix the sum to be paid to the clerk by any person for copies of awards or other documents, or for any other services rendered by him, other than such as it is his duty to perform under that Act. Fees for copies of awards, etc.

(4) Where an appointment to an office or an arrangement for the discharge of the duties of an office is to be made, the council shall not invite or require applicants to name a sum for which they will discharge the duties of the office, or give the appointment to, or make the arrangement with, the person who offers to perform the duties at the lowest salary or remuneration. R.S.O. 1960, c. 249, s. 238 (3, 4). Remuneration not to be settled by tender

(5) Notwithstanding any other Act, in any proceeding to which a municipality is a party, costs adjudged to the municipality shall not be disallowed or reduced merely because the solicitor or the counsel who earned such costs, or in respect of whose services the costs are charged, was a salaried officer of the municipality performing such services in the discharge of his duty and remunerated therefor by his salary, or for that or any other reason was not entitled to recover any costs from the municipality in respect of the services so rendered, and the costs recovered by or on behalf of the municipality in any such case shall be paid into the general funds of the municipality. 1967, c. 55, s. 11. Costs of municipality in any proceeding

238.—(1) Subject to subsection 2, all officers appointed by a council shall hold office during the pleasure of the council, and shall, in addition to the duties assigned to them by this Act, perform all other duties required of them by any other Act or by by-law of the council. 1962-63, c. 87, s. 9, *part*. Tenure of office

(2) No chief administrative officer, clerk, treasurer or engineer shall be dismissed from office except after a hearing by the council or a committee of the whole council if requested by the officer concerned. 1962-63, c. 87, s. 9, *part*; 1968-69, c. 74, s. 10; 1970, c. 135, s. 3. Dismissal of officers

239.—(1) A council may grant an annual retirement allowance, payable weekly, monthly or otherwise, to an employee during his life who has had continuous service for at least twenty years with the municipality or with the municipality and any Retirement allowances

R.S.O. 1970,
c. 118

other municipality or local board as defined in *The Department of Municipal Affairs Act* or any two or more of them and who,

- (a) is retired because of age; or
- (b) while in the service of any municipality or local board has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance together with the amount of any pension payments payable to the employee in any year under a pension plan of any municipality or local board will exceed three-fifths of his average annual salary for the preceding three years of his service. R.S.O. 1960, c. 249, s. 240 (1).

Allowance
to surviving
spouse

(2) Where a council grants an annual retirement allowance to an employee under subsection 1, the by-law may include provision for continuing the allowance to the surviving spouse, if any, during his or her life in an amount not exceeding one-half of the annual allowance payable to the employee. 1970, c. 135, s. 4.

Contribu-
tions by
municipality
or local
board

(3) Where a council grants an annual retirement allowance to an employee under subsection 1, any municipality or local board of which he has been an employee may contribute to such allowance by agreement with the municipality granting the allowance.

Interpre-
tation

(4) In subsection 1, "pension payments" means only pension payments that have resulted from the joint contributions of employer and employee, and does not include any such payments that have resulted solely from contributions of the employee.

Application
of section

(5) This section does not apply to an employee who has entered or enters the service of any municipality or local board after the 1st day of January, 1948.

Interpre-
tation

(6) In this section, "employee" has the same meaning as in paragraph 64 of section 352. R.S.O. 1960, c. 249, s. 240 (2-5).

Repeal of
by-law
prohibited

(7) No by-law passed under this section shall be repealed. 1961-62, c. 86, s. 34.

INVESTIGATION OF CHARGES OF MALFEASANCE, ETC., OR JUDICIAL INQUIRY IN RELATION TO MUNICIPAL MATTERS

Investiga-
tion by
county
judge of
charges of
malfeasance

240.—(1) Where the council of a municipality passes a resolution requesting a judge of the county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate, to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the council,

or an officer or a servant of the corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, servant or other person to the corporation, or to inquire into or concerning any matter connected with the good government of the municipality or the conduct of any part of its public business, including any business conducted by a commission appointed by the municipal council or elected by the electors, the judge shall make the inquiry and for that purpose has all the powers that may be conferred upon commissioners under *The Public Inquiries Act*, and he shall, with all convenient speed, report to the council the result of the inquiry and the evidence taken. R.S.O. 1970,
c. 379

(2) The judge shall be paid by the corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under *The Judicature Act*. Fees payable
to judge
R.S.O. 1970,
c. 228

(3) The council may engage and pay counsel to represent the corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel. Engaging
counsel R.S.O. 1960, c. 249, s. 241.

(4) The judge may engage counsel and such other assistants and staff and incur such incidental expenses as he considers advisable for the proper conduct of the investigation or inquiry, and the municipality shall pay the costs thereof. 1968, c. 76, s. 14. Idem

PART IX

GENERAL PROVISIONS APPLICABLE TO ALL MUNICIPALITIES

241.—(1) Except where otherwise provided, the jurisdiction of every council is confined to the municipality that it represents and its powers shall be exercised by by-law. Jurisdiction
of councils

(2) A by-law passed by a council in the exercise of any of the powers conferred by and in accordance with this Act, and in good faith, shall not be open to question, or be quashed, set aside or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them. R.S.O. 1960, c. 249, s. 242. By-law not
to be
quashed
because un-
reasonable

242. Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act as may be deemed expedient and are not General
power to
make regu-
lations

contrary to law, and for governing the proceedings of the council, the conduct of its members and the calling of meetings. R.S.O. 1960, c. 249, s. 243.

Council a continuing body

243. Proceedings begun by one council may be continued and completed by a succeeding council. R.S.O. 1960, c. 249, s. 244.

Certain acts not to be done by councils after polling day

244.—(1) The council of a local municipality shall not, after the day the poll is held for the election of the new council, or, where all members of council are elected by acclamation, after the day the candidates are declared elected under section 50, pass any by-law, except a by-law with respect to an undertaking, work, project, scheme, act, matter or thing that has been approved by the Municipal Board, or resolution for, or that involves, directly or indirectly, the payment of money other than that provided in the estimates for the current year, or enter into any contract or obligation on the part of the corporation, or appoint to or dismiss from office any officer under the control of the council, or do any other corporate act, except in case of extreme urgency, or unless the act is one that the council is required by law to do or is one that the council is authorized to do by a resolution or by-law passed before the day the poll is held or the day the members of council are declared elected under section 50, as the case may be. R.S.O. 1960, c. 249, s. 245.

Application of subs. 1

(2) Subsection 1 does not apply if the new council that will take office after the poll or acclamation will be composed of not less than three-quarters of the members of the council as composed at the time of the poll or acclamation. 1961-62, c. 86, s. 35.

Fiscal year and audit

245. Notwithstanding any other provision in this Act or any general or special Act,

R.S.O. 1970, c. 118

- (a) the fiscal year of every municipality and local board, as defined in *The Department of Municipal Affairs Act*, is the calendar year from the 1st day of January to the 31st day of December; and
- (b) the accounts referred to in section 231 are those of the next preceding fiscal year. R.S.O. 1960, c. 249, s. 246.

Power to license includes power to prohibit

246.—(1) The power to license any trade, calling, business or occupation or the person carrying on or engaged in it includes the power to prohibit the carrying on of or the engaging in it without a licence. R.S.O. 1960, c. 249, s. 247 (1).

Power to license or regulate places or things includes power to license and regulate trades, etc.

(2) The power to license, regulate or govern places or things includes a power to license, regulate or govern the trades, callings or businesses for which such places or things are used and the persons carrying on or engaged in them. 1965, c. 77, s. 19.

(3) Except where the power of fixing the fee to be paid for the licence is expressly conferred on a board of commissioners of police, the council of the municipality, where by this or any other Act the council or the board is authorized to pass by-laws for licensing any trade, calling, business or occupation or the person carrying on or engaged in it, may, subject to the limitations in the Act, fix the fee to be paid for the licence and the time for which it shall be in force and may provide for enforcing payment of the licence fee.

Who to fix amount of licence fee

(4) The licence fee may be in the nature of a tax for the privilege conferred by it.

Licence fee may be a tax

(5) Subject to *The Theatres Act*, the granting or refusing of a licence to any person to carry on a particular trade, calling, business or occupation, or of revoking a licence under any of the powers conferred upon a council or a board of commissioners of police by this or any other Act, is in its discretion, and it is not bound to give any reason for refusing or revoking a licence and its action is not open to question or review by any court.

Discretion as to granting or refusing a licence
R.S.O. 1970, c. 459

(6) Notwithstanding subsection 5, a board of commissioners of police or a council shall not refuse to grant a licence with respect to the carrying on of any business by reason only of the location of such business where such business was being carried on at such location at the time of the coming into force of the by-law requiring such licence.

Certain licences not to be refused by reason only of location of business affected

(7) Where a licence is revoked, the licensee is entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted. R.S.O. 1960, c. 249, s. 247 (2-6).

Refund when licence revoked

(8) Where, under this or any other Act, a board of commissioners of police is authorized to pass by-laws for licensing any trade, calling, business or occupation or the person carrying on or engaged in it, and for revoking such licences, the board may by by-law authorize the chief of police of the municipality to suspend any such licence for such time and subject to such terms and conditions as the by-law may provide.

Suspension of licences

(9) No suspension of a licence by a chief of police is effective after the expiration of two weeks from the date of suspension or after the time of the next meeting of the board after the suspension, whichever occurs first. R.S.O. 1960, c. 249, s. 247 (7, 8), *amended*.

Idem

(10) Notwithstanding subsection 5, the decision of a board of commissioners of police in refusing or revoking a licence is subject to an appeal therefrom to a judge of the Supreme Court whose decision is final.

Appeal from revocation of licence

Practice
on appeal

(11) The practice and procedure on and in relation to an appeal made under subsection 10 shall be the same, as nearly as may be, as in the case of an appeal from a decision of the Master of the Supreme Court in an action or proceeding in the Supreme Court. R.S.O. 1960, c. 249, s. 247 (9, 10).

Granting
monopolies
prohibited
R.S.O. 1970,
cc. 165, 457

247.—(1) Subject to section 252, and to section 6 of *The Ferries Act* and to section 100 of *The Telephone Act*, a council shall not confer on any person the exclusive right of exercising, within the municipality, any trade, calling or business, or impose a special tax on any person exercising it, or require a licence to be taken for exercising it, unless authorized or required by this or any other Act so to do; but the council may require a fee, not exceeding \$1, to be paid to the proper officer for a certificate of compliance with any regulations in regard to the trade, calling or business.

Limiting
number of
pool and
billiard
tables and
licences

(2) This section does not prevent the council under the powers conferred by paragraph 1 of section 383 from limiting the number of licences and the number of tables to such number as the council considers fit even if the number be limited to one. R.S.O. 1960, c. 249, s. 248.

Bonuses
prohibited

248. Notwithstanding any general or special Act, a council shall not grant bonuses in aid of any manufacturing business or other industrial or commercial enterprise. 1961-62, c. 86, s. 36, *part*.

Destruction
of docu-
ments
R.S.O. 1970,
c. 118

249.—(1) Subject to subsection 2, a municipality or a local board thereof, as defined in *The Department of Municipal Affairs Act*, except a school board, shall not destroy any of its receipts, vouchers, instruments, rolls or other documents, records and papers except,

- (a) after having obtained the approval of the Department; or
- (b) in accordance with a by-law passed by the municipality and approved by the auditor of the municipality establishing schedules of retention periods during which the receipts, vouchers, instruments, rolls or other documents, records and papers must be kept by the municipality or local board. 1965, c. 77, s. 20; 1968-69, c. 74, s. 11 (1).

When copies
may be
destroyed

(2) Where a by-law has been passed by a municipality under clause *b* of subsection 1, copies of its receipts, vouchers, instruments, rolls or other documents, records and papers may be destroyed at any time if the original thereof is subject to a retention period within one of the schedules established by the by-law. 1968-69, c. 74, s. 11 (2).

250.—(1) In this section,Interpre-
tation

- (a) “approved pension plan” means a pension, superannuation or benefit fund or plan to which a municipality or local board makes contribution under any general or special Act, except *The Public Service Superannuation Act*, *The Teachers’ Superannuation Act* and *The Ontario Municipal Employees Retirement System Act*;

R.S.O. 1970,
cc. 387, 455,
324

- (b) “employee” means an employee as defined in paragraph 64 of section 352;

- (c) “local board” means a local board as defined in paragraph 64 of section 352;

- (d) “service” means employment of an employee, and “credited service” means service under an approved pension plan for which a pension is payable;

- (e) “year’s maximum pensionable earnings” means the Year’s Maximum Pensionable Earnings as defined in the *Canada Pension Plan*.

1965, c. 51
(Can.)

(2) Subject to the approval of the Department, a municipality or local board that makes contribution to an approved pension plan may discontinue contributions to or terminate the provisions of such plan or may transfer the assets thereof to another such plan or to the Ontario Municipal Employees Retirement Fund.

Termination
of approved
pension plan

(3) Notwithstanding any general or special Act, the terms and conditions of an approved pension plan shall not be altered, amended or repealed without the approval of the Department.

Amendment
of approved
pension plan

(4) Notwithstanding any general or special Act, a municipality or local board shall not make a contribution for the provision of a pension with respect to an employee under an approved pension plan or under *The Ontario Municipal Employees Retirement System Act* that is in excess of an annual amount of 2 per cent of his average annual earnings during the sixty consecutive months during which his earnings as an employee were highest multiplied by the number of years of his service up to thirty-five years and reduced by 0.7 per cent of the lesser of such average annual earnings or the year’s maximum pensionable earnings established at the time he ceased to be employed by the municipality or local board multiplied by the number of years of credited service of the employee after the 1st day of January, 1966, but this subsection does not apply so as to reduce any benefit provided under the terms and conditions of an approved pension plan in force on the 31st day of December, 1965.

Maximum
pension
benefitR.S.O. 1970,
c. 324

(5) Notwithstanding any general or special Act, where an employee on or after the 1st day of March, 1948,

Transfer
from
approved
pension plan

- (a) has been contributing to an approved pension plan;

- (b) terminates his employment with the municipality or local board; and
- (c) without intervening employment becomes a member of the civil service of Ontario or Canada, the civic service of any other municipality or local board or the staff of any board, commission or public institution established under any Act of the Legislature,

he is entitled, in lieu of a refund of his contributions to the approved pension plan plus any interest thereon, to the pension benefits and any other benefits that would be payable under such plan in respect of his employment with the municipality or local board to the date of such termination as if he had continued in such employment until his death or retirement age, and such municipality or local board shall authorize, on the request of the employee, the transfer of a sum of money equal to the larger of,

- (d) the contributions made by the employee under the approved pension plan, plus any interest thereon; or
- (e) the present value, calculated as of the date of the transfer of such sum of money on the basis of generally accepted actuarial methods, of the pension benefits and any other benefits under the approved pension plan to which the employee is entitled as provided in this subsection,

to any fund or plan maintained to provide pension benefits for members of such civil or civic service or staff of which the employee has become a member, provided that such a transfer is permitted under the terms of the fund or plan to which the transfer is to be made.

Transfer to
approved
pension plan

(6) Notwithstanding any general or special Act, where a member of,

- (a) the civil service of Ontario or Canada;
- (b) the civic service of any other municipality or local board; or
- (c) the staff of any board, commission or public institution established under any Act of the Legislature,

on or after the 1st day of March, 1948, becomes an employee of a municipality or local board that makes contributions to an approved pension plan and there is a sum of money at the credit of the member in a superannuation or pension fund or plan maintained for members of such civil or civic service, the municipality may accept the transfer of such sum of money and apply it for the benefit of the employee in accordance with the terms of the approved pension plan.

(7) Where a sum of money is transferred in accordance with subsection 5 or 6 to a fund or plan and the employee or member is entitled to a refund under such fund or plan, only that portion of the sum so transferred that is attributable to contributions made by the employee or member, as determined by the employer responsible for the administration of the fund or plan from which the sum is transferred, may be refunded to the employee or member, and the remainder shall be credited to the fund or plan to which the sum is transferred. 1966, c. 93, s. 14.

Restriction
upon
refund

251. Where, after the 1st day of June, 1965, a by-law under paragraph 53 of subsection 1 of section 354 or section 362 is passed imposing a special rate or levy within a defined area and there are in such defined area lands as defined in *The Assessment Act* that are exempt from taxation, that part of the cost of the work for which the special rate or levy is made that would be chargeable to such exempt lands if they were not exempt from taxation shall be levied against all the rateable property in the municipality. 1965, c. 77, s. 22.

Special
rates re
exempt
lands in
defined
areas
R.S.O. 1970,
c. 32

252.—(1) The council of a city may grant to any person, upon such terms and conditions as may be considered expedient, the exclusive right to place and maintain, for any period not exceeding ten years, waste-paper boxes on the street corners or elsewhere in the city, under and subject to the direction of the city engineer and the approval of the council. R.S.O. 1960, c. 249, s. 249 (1); 1962-63, c. 87, s. 11 (1).

Exclusive
right to
maintain
waste-paper
boxes on
streets

(2) The location of the boxes is subject to change from time to time at the expense of the grantee, by whom the boxes shall be kept clean and the collections therein removed to the satisfaction of the city engineer and as often as he may direct. R.S.O. 1960, c. 249, s. 249 (2); 1962-63, c. 87, s. 11 (2).

Location
of boxes

(3) The council may,

- (a) regulate and control the type of construction of such boxes and from time to time vary and change the locations thereof;
- (b) allow the placing of advertisements thereon and regulate the wording thereof and prohibit the placing of objectionable matter thereon;
- (c) fix and collect an annual fee from the owner thereof for the privilege granted;
- (d) keep such boxes clean and undertake the removal of the waste deposited therein. R.S.O. 1960, c. 249, s. 249 (3); 1962-63, c. 87, s. 11 (3).

Power to
control and
collect fees

253. The council of a city may establish and carry on the

Cold storage
business

business of cold storage in connection with or upon the market property of the corporation. R.S.O. 1960, c. 249, s. 250.

Joint works
and under-
takings

254. The council of a municipality may pass by-laws for entering into and performing any agreement with any other council for fulfilling, executing or completing, at their joint expense and for their joint benefit, any undertaking, work or project within the jurisdiction of the council. 1965, c. 77, s. 23.

Borrowing
powers

255. Subject to the limitations and restrictions in this and any other Act, a council may borrow money for the purposes of the corporation, whether under this or any other Act, and may issue debentures therefor. R.S.O. 1960, c. 249, s. 251.

Debentures
for joint
under-
takings

256.—(1) Where, under this or any other general Act, two or more municipalities are authorized or required jointly to provide moneys for any purpose, and it is necessary to raise such moneys by the issue of debentures, the Municipal Board upon the application of the council of one or more of such municipalities may by order authorize one of such municipalities to raise the whole amount required by the issue of its debentures, or to raise its portion of the moneys and the portion of one or more of the other municipalities by the issue of its debentures, and may by its order relieve the other municipalities or such other municipalities, as the case may be, from the necessity of issuing debentures.

Annual
rates

(2) Where, under an order of the Municipal Board under subsection 1, any municipality issues debentures for the portion of the moneys required to be raised by another municipality, the other municipality shall provide and raise by a special rate on all the rateable property in the municipality liable therefor, in each year of the currency of the debentures, a sum sufficient to pay its share of the principal and interest falling due in such year upon such debentures, such share to be determined in the proportion that that municipality's portion of the moneys required to be raised bears to the total amount of the debenture issue.

Payment to
municipality
issuing
debentures

(3) The sum to be raised annually by such other municipality to pay its share of any principal or interest falling due in any year upon any such debentures shall be paid to the treasurer of the municipality that issued the debentures before the day such principal or interest becomes due.

Consent
required

(4) No order of the Municipal Board under this section shall require a municipality, without its consent, to issue debentures to provide moneys required to be raised by another municipality.

Limited
application
of section

(5) This section does not apply where the Act under which the moneys are authorized or required to be raised contains provisions similar in effect to the provisions of this section. R.S.O. 1960, c. 249, s. 252.

257.—(1) When there is an emergency as defined in *The Emergency Measures Act* and the council is required to appoint a person or persons to fill a vacancy or vacancies in the offices of mayor, reeve, deputy reeve, controller, alderman or councillor, when a quorum of the council cannot be obtained, the surviving member or members of council capable of performing his or their duties as such or where there are no surviving members of council capable of performing their duties as such, the chairman of the emergency measures committee under the plan formulated for the municipality under *The Emergency Measures Act*, shall make the appointments required under section 150 and subsection 2 of section 207, but such appointments shall be only for the duration of the emergency and such further time as is required to hold an election as provided in subsection 2.

Council meetings during emergency R.S.O. 1970, c. 145

(2) When the emergency has ceased, a new election shall be held to elect the persons to fill the vacancies for the remainder of the terms of the members whose seats have become vacant, and the provisions of section 149 apply *mutatis mutandis*. 1968, c. 76, s. 15, *part*.

Election to fill vacancies after emergency

258. Where there is an emergency as defined in *The Emergency Measures Act*, the meetings of any municipal council may be held at any convenient location within or outside the municipality, and the council of a municipality may acquire and hold such land at such locations and erect such buildings thereon as may be convenient for such purpose and for any other purpose of the municipality. 1968, c. 76, s. 15, *part*.

Acquisition of property during emergency

AUTHENTICATION OF BY-LAWS

259.—(1) Every by-law shall be under the seal of the corporation, and shall be signed by the head of the council or by the presiding officer at the meeting at which the by-law was passed and by the clerk.

How by-laws to be authenticated

(2) Every by-law purporting to be so sealed and signed, when produced by the clerk or any officer of the corporation charged with the custody of it, shall be received in evidence in all courts without proof of the seal or signature.

Proof of seal or signature not required

(3) Where, by oversight, the seal of the corporation has not been affixed to a by-law, it may be affixed at any time afterwards, and, when so affixed, the by-law is as valid and effectual as if it had been originally sealed.

Omission to affix seal

(4) A copy of a by-law, purporting to be certified by the clerk, under the seal of the corporation, as a true copy, shall be received in evidence in all courts without proof of the seal or signature. R.S.O. 1960, c. 249, s. 253.

Certified copy of by-law

CERTIFICATE OF CLERK AS TO APPLICATION FOR BY-LAW

Certificate
of clerk
that appli-
cation for
by-law duly
signed

260.—(1) Where by this or any other Act it is provided that a by-law may be passed by a council upon the application of a prescribed number of electors or inhabitants of the municipality or locality, the by-law shall not be finally passed until the clerk has certified that the application was sufficiently signed. R.S.O. 1960, c. 249, s. 254 (1); 1968-69, c. 74, s. 12 (1).

Powers
of clerk
R.S.O. 1970,
c. 255

(2) For the purposes of this section, the clerk has all the powers of the clerk under section 15 of *The Local Improvement Act*. R.S.O. 1960, c. 249, s. 254 (2); 1968-69, c. 74, s. 12 (2).

Certificate
to be
conclusive

(3) Where the clerk has so certified, his certificate is conclusive that the application was sufficiently signed. R.S.O. 1960, c. 249, s. 254 (3); 1968-69, c. 74, s. 12 (3).

PART X

VOTING ON BY-LAWS

Interpre-
tation

261. In this Part,

- (a) "by-law" includes a resolution and a question upon which the opinion of the electors is to be obtained;
- (b) "electors" means the persons entitled to vote on the by-law;
- (c) "judge" means the judge or junior judge of the county or district court of the county or district in which the municipality, the council of which submits the by-law, is situate;
- (d) "proposed by-law" means a by-law submitted for the assent of the electors. R.S.O. 1960, c. 249, s. 255.

Bribery
sections, etc.,
to apply to
voting on
any by-law
or question

262. All the provisions of this Act, prohibiting the doing of any act or making it an offence against this Act, and prescribing penalties therefor, applicable to the election of members of municipal councils apply *mutatis mutandis* to the voting upon a by-law, whether the submission of it to the electors is optional with or compulsory upon the council. R.S.O. 1960, c. 249, s. 256.

If a by-law
requires the
assent of
the electors,
mode of
obtaining
same

263.—(1) Where a by-law requires the assent or is submitted to obtain the opinion of the electors, except where otherwise provided the council shall, by a separate by-law, appoint the day for taking the votes of the electors, the places where the votes are to be taken and a deputy returning officer to take the votes at every such place.

Wards

(2) Where a municipality is divided into wards, there shall be at least one polling place in each ward.

(3) The date appointed shall not be less than three or more than five weeks after the first publication of the notice hereinafter mentioned. Date of taking vote

(4) The by-law for taking the vote shall also appoint a time when, and a place where, the clerk will sum up the number of votes given for and against the proposed by-law, or in the affirmative and the negative on the question and a time and a place for the appointment of persons to attend at the polling places, and at the final summing up of the votes by the clerk, on behalf of the persons interested in and promoting or opposing the by-law or voting in the affirmative or the negative on the question. Time and place for summing up votes, etc., by clerk

(5) A copy of the proposed by-law or a statement of the question submitted, as the case may be, shall be published once a week for three successive weeks, together with a notice signed by the clerk stating that the copy is a true copy of the proposed by-law or a correct statement of the question submitted, as the case may be, and, in the case of a by-law, that, if the assent of the electors is obtained to it, it will be taken into consideration by the council after the expiration of one month from the date of the first publication, which date shall also be stated, and, in the case of a money by-law or a question as to securing a supply of electrical power or energy from The Hydro-Electric Power Commission of Ontario, stating that a tenant who desires to vote must deliver to the clerk not later than the tenth day before the day appointed for taking the vote the declaration provided for by subsection 4 of section 266. Publication of by-law

(6) The notice shall also state the day and places appointed for taking the votes, except where the votes are to be taken at the same time as the municipal election, and, in that case, shall state that the votes will be taken at the municipal election, and shall also state the time and place for the appointment of persons to attend at the polling places and at the final summing up of the votes by the clerk. Notice

(7) Instead of publishing a copy of the proposed by-law, the council may publish a synopsis of it, containing a concise statement of its purpose, the amount of the debt or liability to be created or the money to be raised by it, how the same is to be payable, and the amount to be raised annually for the payment of the debt, and the interest or the instalments, if the debt is to be paid by instalments. Synopsis of by-law may be published

(8) Where more than one by-law or question is to be submitted at the same time, all of such by-laws and questions may be included in one notice. R.S.O. 1960, c. 249, s. 257. By-laws, questions, in one notice

264. Where more than one by-law or question is to be submitted at the same time, all of such by-laws and questions may be placed upon one ballot paper. R.S.O. 1960, c. 249, s. 258. By-laws, questions, in one ballot

Appoint-
ment of
persons to
attend at
polling
places and
at final sum-
ming up of
votes

265.—(1) The head of the council, or a member of it appointed for that purpose by resolution, shall attend at the time and place appointed and, if requested so to do, shall appoint, by writing signed by him, two persons to attend at the final summing up of the votes by the clerk, and one person to attend at each polling place on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question, and a like number on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question.

Declaration

(2) Before any person is so appointed, he shall make and subscribe a declaration (Form 24).

Appoint-
ment to be
produced

(3) A person so appointed, before being admitted to the polling place or to the summing up of the votes, shall, if so requested, produce and show his appointment to the deputy returning officer.

When elector
may act

(4) In the absence of a person so appointed or if no person has been appointed, any elector, upon making and subscribing, before the returning officer or deputy returning officer, a declaration (Form 24), may be present at a polling place or at the final summing up of the votes, as the case may be. R.S.O. 1960, c. 249, s. 259.

Persons
qualified to
vote on
money
by-laws

266.—(1) The persons qualified to vote on a money by-law are those entitled to vote at an election with the following exceptions:

- (a) tenants, other than those mentioned in subsection 4;
- (b) farmers' sons;
- (c) farmer's daughter or farmer's sister;
- (d) a person who is a municipal elector by reason of being the wife or husband of the person rated or entitled to be rated for land as provided by clause *d* or *e* of subsection 1 of section 38.

Nominee of
corporation

(2) The nominee of a corporation assessed upon the last revised assessment roll of the municipality which, if it had been a male person, would have been entitled to have been entered on the voters' list from which the list of voters mentioned in section 267 is to be prepared or in the case provided for by section 83 would, had it been a male person, have been entitled to be entered on such list of voters is also qualified to vote.

Where
corporation
assessed for
residential
property
owned on a
co-operative
basis

(3) Where a corporation is assessed as owner of residential property consisting of units or apartments that are owned on a co-operative basis, the corporation may nominate a person to vote on money by-laws for each unit or apartment separately assessed on the last revised assessment roll.

(4) A tenant whose lease extends for the time for which the debt or liability is to be created or in which the money to be raised by the proposed by-law is payable, or for at least twenty-one years, and who has by the lease covenanted to pay all municipal taxes in respect of the property other than local improvement rates, if he makes and files with the clerk, not later than the tenth day before the day appointed for taking the vote, a declaration under the *Canada Evidence Act* so stating, is entitled to have his name entered on the list of voters prepared by the clerk under section 267.

Qualification
of tenants

R.S.C. 1952,
c. 307

(5) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a money by-law, it shall, not later than the tenth day before the day appointed for taking the vote, file with the clerk of the municipality an appointment in writing of a person to vote as its nominee and on its behalf, and the name of every such nominee shall be included in the list. R.S.O. 1960, c. 249, s. 260.

Appointment
of nominee
of corpora-
tion to be
filed with
clerk

267.—(1) Where the proposed by-law is a money by-law or one on which all the municipal electors are not entitled to vote, the clerk, after the passing of the by-law for taking the vote and not later than the tenth day before the day appointed for taking the vote, shall prepare a list of the persons entitled to vote on the proposed by-law and, subject to section 268 and to section 22 of *The Voters' Lists Act*, the list so prepared is final and conclusive as to the right of every person named therein to vote, and that no person not named therein is entitled to vote.

Preparation
of list of
voters

R.S.O. 1970,
c. 485

(2) The clerk shall prepare such list from the last revised voters' list, and in the case provided for by section 83 from the last revised assessment roll, omitting from his list the names of all persons whose names are entered on such voters' list or assessment roll, but are not entitled as appears by such list or roll to vote on the by-law, and in the case of money by-laws including in the list the nominees of corporations who are entitled to vote on the by-law.

From last
revised
voters' list
or assess-
ment roll

(3) When the voting is to take place at the same time as the municipal elections, it is sufficient, in the case of persons whose names are entered on the voters' list as tenants, if there is written on the voters' list used for the purpose of the election opposite to the name of such of them as are entitled to vote on the by-law the words "entitled to vote on the by-law", and it shall be deemed that the names of all others of such persons are omitted from the list within the meaning of subsection 2.

Designating
tenants
entitled to
vote

(4) The list prepared by the clerk shall be certified by him to be a true and correct list of all persons entitled to vote on the proposed by-law, and shall be forthwith posted up in his office. R.S.O. 1960, c. 249, s. 261.

Clerk to
certify

Revision
of list by
judge

268.—(1) At any time not later than five days before the day appointed for taking the vote, a judge, upon the application of any person whose name is entered on the list of voters prepared by the clerk or of any person entitled to be entered on that list, may strike from the list the name of any person who is dead or whose name has been wrongfully entered on it, and may add to the list the name of any person whose name has been wrongly omitted from the list or who, if a tenant, though he had not made the declaration prescribed by subsection 4 of section 266, establishes that he has the qualification prescribed by that section.

Proof of
death

(2) For the purpose of proving a death, the certificate of the Registrar General is sufficient evidence, but, if the identity of the person who is dead with the person whose name is sought to be struck off is disputed or open to reasonable doubt, proof of the identity shall be required.

Proceedings

(3) The proceedings shall be the same, as nearly as may be, as prescribed by subsection 2 of section 20 of *The Voters' Lists Act*. R.S.O. 1960, c. 249, s. 262.

R.S.O. 1970,
c. 485

Voters' list
where all
municipal
electors
vote

269. Where all the municipal electors are entitled to vote on the proposed by-law, the same lists shall be used in taking the vote as would be the proper voters' list to be used at a municipal election, and such lists are as final and conclusive as to the right to vote as when used at a municipal election. R.S.O. 1960, c. 249, s. 263.

Where rate-
payers
qualified in
more than
one ward

270. In a municipality divided into wards, a voter is entitled to vote on a money by-law in each ward in which he has the prescribed qualification, but is not entitled to vote more than once on any other by-law or on any question submitted to the electors unless it is otherwise expressly provided by the Act, by-law or other authority under which the vote is taken. R.S.O. 1960, c. 249, s. 264.

Clerk not
to have cast-
ing vote

271. The clerk, if otherwise qualified, is entitled to vote, but not to give a casting vote. R.S.O. 1960, c. 249, s. 265.

Form of bal-
lot papers

272.—(1) The ballot papers shall be according to Form 25 when the voting is on a by-law, and according to Form 26 when it is on a question.

Designation
of wards and
polling sub-
divisions

(2) In a municipality divided into wards or polling subdivisions, or both, the ballot paper, in Form 25 or 26, may by by-law be varied to show the names or numbers of the wards and the numbers of the polling subdivisions, and the form of ballot paper illustrated in Form 27 shall be varied accordingly. R.S.O. 1960, c. 249, s. 266.

Directions
to voters

273. The printed directions to voters shall be according to Form 27. R.S.O. 1960, c. 249, s. 267.

274.—(1) Where all the municipal electors are entitled to vote, the voter's oath shall be the same *mutatis mutandis* as at a municipal election where the members of the council are elected by general vote.

Voter's oath where all municipal electors vote

(2) In the case of a money by-law, a voter is not entitled to select the form of oath he will take, but the oath to be taken by him shall be that applicable to his qualification as an owner or tenant, as it appears in the list of voters. R.S.O. 1960, c. 249, s. 268.

Voter not entitled to select form of oath

275. Except as otherwise in this Part provided, Part III applies *mutatis mutandis* to voting on a by-law. R.S.O. 1960, c. 249, s. 269.

Application of Part III

276. After the clerk has summed up the number of votes cast, he shall declare the result of the voting and shall forthwith certify to the council the number of votes cast for and against the by-law. R.S.O. 1960, c. 249, s. 270.

Clerk to certify result to council

277. A by-law shall be deemed to have been assented to by the electors if a majority of the votes cast is in favour of the by-law. R.S.O. 1960, c. 249, s. 271.

Assent of electors, what deemed to be

278.—(1) Where the by-law is proposed to be passed by a county council, the council may fix a day or may prescribe the days on which municipal elections are to be held in the local municipalities in the county as the day or days for obtaining the assent or opinion of the electors, in which event the local municipalities shall submit the proposed by-law to their respective electors accordingly, and the clerk of each local municipality shall, upon the expiry of the time for applying for a scrutiny of the vote under section 279 or, where there has been such an application, on the disposition of it by the judge, forthwith certify the result of the vote in his local municipality to the clerk of the county who shall certify to the county council the number of votes cast for and against the by-law.

Procedure in case of county by-law

(2) A by-law of a county shall be deemed to have been assented to by the electors if a majority of the votes cast in all the local municipalities is in favour of the by-law. 1965, c. 77, s. 24.

When by-law deemed to have assent

SCRUTINY

279.—(1) Within two weeks after the clerk has declared the result of the voting, any person who was entitled to vote upon the by-law or the council, after giving notice of the application to such persons as the judge directs, may apply to a judge of the county or district court of the county or district in which the municipality is situate for a scrutiny of the votes, and, if it is shown by affidavit that there are reasonable grounds for the application and, if the

Scrutiny may be had on application to county or district judge

application is by a person entitled to vote on the by-law, he enters into a recognizance before the judge and to be allowed by him in the sum of \$100, with two sureties in the sum of \$50 each, conditioned to prosecute the application with effect and to pay to any person to whom costs may be awarded the costs awarded to him, the judge may order a scrutiny of the votes to be had and shall appoint a time and place within the municipality for proceeding with it.

Notice of
time of
scrutiny

(2) At least one week's notice of the time and place appointed shall be given by the applicant to such persons as the judge directs and to the clerk.

Proceedings

(3) At the time and place appointed, the clerk shall attend before the judge with the ballot papers, and the judge after hearing such evidence as he considers necessary and the parties, or such of them as attend, or their counsel, shall in a summary manner determine whether the by-law has been assented to as required by this Act and shall forthwith certify the result to the council.

Striking
off votes
for
corrupt
practices

(4) Where it is proved that any person interested in and promoting or opposing the by-law was guilty of bribery or of a corrupt practice in respect of a voter who voted on the by-law, there shall be struck off the number of votes given for the by-law if the person guilty was promoting the by-law, or given against the by-law if the person guilty was opposing the by-law, one vote for every ballot cast by such voter.

Power of
judge

(5) The judge has the like power and authority as to all matters arising upon the scrutiny as would be possessed by him upon a trial of the validity of the election of a member of a council, but does not have power to set aside the voting on the ground of general bribery or corrupt practices, and the costs are in the discretion of the judge who may direct by whom, to whom, and in what manner they shall be paid.

No appeal

(6) The decision of the judge is final and not subject to appeal. R.S.O. 1960, c. 249, s. 273.

PASSING BY-LAWS BY COUNCIL

Cases in
which
council
must pass
by-law
assented to
by electors

280.—(1) Subject to subsection 5, where a proposed by-law that the council has been legally required by petition or otherwise to submit for the assent of the electors has received such assent, it is the duty of the council to pass the by-law within six weeks after the voting took place.

Discretion
of council
in other
cases

(2) Subject to subsection 5, in other cases it is not incumbent on the council to pass the by-law, but, if the council determines to pass it, it shall be passed within six weeks after the voting took place and not afterwards.

(3) The by-law in either case shall not be passed until the expiration of two weeks after the result of the voting has been declared or, if within that period an order for a scrutiny has been made, until the result of the scrutiny has been certified by the judge.

Time within which by-law cannot be passed

(4) The time that intervenes between the making of an application for a scrutiny and the final disposition of it shall not be reckoned as part of the six weeks.

Time occupied by scrutiny not to be counted

(5) The Municipal Board may, upon the application of the council, extend the time for passing the by-law beyond such period of six weeks, and such extension of time may be made although the application for the extension is not made until after the expiration of such period of six weeks, and in such case the by-law may be passed within such extended time. R.S.O. 1960, c. 249, s. 274.

Extension of time for passing by-law

PROMULGATION OF BY-LAWS

281.—(1) The promulgation of a by-law consists of the publication of a true copy of it, with a notice (Form 28) appended thereto, at least once a week for three successive weeks.

Promulgation of by-laws

(2) Instead of publishing a true copy of the by-law, a synopsis of it may be published, containing a concise statement of its purposes, the amount of any debt or liability to be created or money to be raised by it, how the same is to be payable, and the amount to be raised annually for the payment of the debt, and the interest or the instalments, if the debt is to be paid by instalments.

Synopsis of by-law may be published

(3) If an application to quash the by-law, or part of it, is not made within three months after the first publication, the by-law, or so much of it as is not the subject of or is not quashed upon any such application, is valid and binding according to its terms so far as the same ordains, prescribes or directs anything within the proper competence of the council. R.S.O. 1960, c. 249, s. 275.

If not moved against within the time limited to be valid

PART XI

QUASHING BY-LAWS

282. In this Part, "by-law" includes an order or resolution. R.S.O. 1960, c. 249, s. 276.

Interpretation

283.—(1) The Supreme Court upon application of a resident of the municipality or of a person interested in a by-law of its council may quash the by-law in whole or in part for illegality.

Proceedings to quash by-law

(2) Notice of the application shall be served at least seven days before the return day of the motion.

Service of notice

Recognizance

(3) Before the application is made, the applicant or, if the applicant is a corporation, some person on its behalf shall enter into a recognizance before a judge of the county or district court of the county or district in which the municipality is situate, with two sureties in the sum of \$100, conditioned to prosecute the application with effect and to pay any costs that may be awarded against the applicant.

Allowance of recognizance

(4) The judge may allow the recognizance upon the sureties making proper affidavits of justification and, after it is allowed, the recognizances with the affidavits shall be filed in the office of the Registrar of the Supreme Court.

Deposit in court in lieu of recognizance

(5) In lieu of the recognizance, the applicant may pay into court \$100, and the certificate of the payment into court shall be filed in the office of the Registrar

Application of deposit

(6) After the determination of the proceedings, the judge may order that the money paid into court be applied in payment of costs or be paid out to the applicant. R.S.O. 1960, c. 249, s. 277.

Quashing by-law for corrupt practice

284. A by-law, in respect of the passing of which a contravention of any of the provisions of sections 178 to 180 has taken place, may be quashed. R.S.O. 1960, c. 249, s. 278.

Application to quash by-law affecting another municipality

285.—(1) Where it is alleged that a by-law injuriously affects another municipality or any ratepayer of it, and that the by-law is illegal in whole or in part, the corporation of such other municipality or any ratepayer of it may apply to quash the by-law.

No security required from municipality

(2) Where the application is made by a municipal corporation, security for costs shall not be required.

Inquiry by county or district judge where corrupt practices alleged

(3) Where the application is based upon an allegation of a contravention of any of the provisions of sections 178 to 180, either alone or in conjunction with any other ground of objection, the Supreme Court may direct an inquiry as to the alleged contravention to be had before a special examiner or a judge of the county or district court of the county or district in which the municipality is situate, and the witnesses upon the inquiry shall be examined upon oath.

Return of evidence to officer of Supreme Court

(4) After the completion of the inquiry, the special examiner or the judge shall return the evidence taken before him to the proper officer of the Supreme Court, and the same may be read in evidence upon the motion to quash.

No act to be done under by-law pending inquiry

(5) Where an order directing an inquiry has been made under subsection 3 and a copy of it has been left with the clerk of the municipality, unless the Supreme Court otherwise orders, nothing shall be done under the by-law until the application is disposed of.

(6) In other cases, the Court may direct that nothing shall be done under the by-law until the application is disposed of. Other cases
R.S.O. 1960, c. 249, s. 279.

286. An application to quash, in whole or in part, a by-law, except a money by-law registered under section 300, shall not be entertained unless made within one year after the passing of the by-law, but, if the by-law required the assent of the electors and was not submitted for or did not receive such assent, the application may be made at any time. Time for making application to quash
R.S.O. 1960, c. 249, s. 280.

PART XII

MONEY BY-LAWS

287. "Rateable property", when used in this Act or in any by-law heretofore or hereafter passed that directs the levying of a rate on the rateable property in the municipality or any part of it, includes business assessment within the meaning of *The Assessment Act*. Interpretation
R.S.O. 1960, c. 249, s. 281; 1968-69, c. 74, s. 13. R.S.O. 1970, c. 32

288.—(1) A money by-law shall provide that the whole debt and the debentures, if any, to be issued therefor shall be made payable within the respective periods hereinafter mentioned at furthest from the time when the debentures are issued, When debentures to be made payable

- (a) if the debt is for railways, harbour works or improvements, gas or water works, the purchase or improvement of parks or the erection of secondary or public school houses, public hospitals and the acquiring of land therefor, or for electric light, heat or power works or water privileges or land used in connection therewith, or for acquiring land for a drill-shed or armoury, in thirty years;
- (b) if the debt is for the establishment of a system of public scavenging or for the collection and disposal of ashes, refuse and garbage, in ten years;
- (c) if the debt is for the purchase of road-making machinery and appliances, in five years;
- (d) if the debt is for any other purpose, in such term of years as the Municipal Board may approve. R.S.O. 1960, c. 249, s. 282 (1); 1960-61, c. 59, s. 9.

(2) A money by-law for the issuing of debentures shall provide that the principal shall be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid, but the by-law may provide for annual instalments of combined principal and interest. Principal and interest payments

Amount to
be raised
annually

(3) A money by-law for the issuing of debentures shall provide for raising in each year by a special rate on all the rateable property in the municipality the sums of principal and interest payable under the by-law in such year to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act or in accordance with subsection 14. R.S.O. 1960, c. 249, s. 282 (2, 3).

Instalment
debentures
and
debentures
to refund
existing
debentures
at maturity
R.S.O. 1970,
c. 293

(4) Notwithstanding subsection 3, a local municipality having a population of not less than 20,000 as determined under *The Municipal Unconditional Grants Act* may by by-law, without the assent of the electors,

- (a) authorize the borrowing of money by the issue of instalment debentures the last instalment of which shall mature not earlier than ten years after the date upon which they are issued and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause *b*, and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded; and
- (b) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a rate or rates imposed on such persons or property as may be specified in the by-law and such rate or rates shall be levied upon the same persons or property in each case. 1970, c. 86, s. 1, *part*.

By-law to
change mode
of issuing
debentures

(5) The council may by by-law, without the assent of the electors, authorize a change in the mode of issue of the debentures, and may provide that the debentures be issued with coupons, instead of in amounts of combined principal and interest or *vice versa*, and, where any debentures issued under the by-law have been sold, pledged or hypothecated by the council, upon again acquiring them, or at the request of any holder of them, may cancel them and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the

same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year.

(6) All the debentures shall be issued at one time and within two years after the passing of the by-law unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years, after the passing of the by-law.

Debentures, when to be dated and issued

(7) All the debentures shall bear the same date, except where they are issued in sets, and in that case every debenture of the same set shall bear the same date.

Date of debentures

(8) Notwithstanding the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection 6 and the debentures may bear date before the date the by-law is passed if the by-law provides for the first levy being made in the year in which the debentures are dated or in the next succeeding year.

Idem

(9) The Municipal Board, on the application of the council or of any person entitled to any of the debentures, or of the proceeds of the sale thereof, may extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law.

Extension of time for issue

(10) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

Application after time expired

(11) Unless the by-law names a later day when it is to take effect, it shall take effect on the day of its passing.

Day when by-law to take effect

(12) Notwithstanding any other Act, the council may borrow sums for two or more purposes in one debenture by-law and provide for the issue of one series of debentures therefor.

Consolidation

(13) The by-law may provide that all the debentures or a portion thereof shall be redeemable at the option of the corporation on any date prior to maturity, subject to the following provisions:

Redemption before maturity

1. The by-law and every debenture that is so redeemable shall specify the place of payment and the value at which such debenture may be so redeemed.
2. The principal of every debenture that is so redeemable shall become due and payable on the date set for the

Place of payment and value

Interest

redemption thereof, and from and after such date interest ceases to accrue thereon where provision is duly made for the payment of the amount thereof.

Notice to
registered
owner

3. Notice of intention so to redeem shall be sent by post at least thirty days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book.

Publication
of notice

4. At least thirty days prior to the date set for such redemption, notice of intention so to redeem shall be published in *The Ontario Gazette* and in a newspaper of general circulation, if any, in the municipality and in such other manner as the by-law may provide.

Order in
which debentures
to be
redeemed

5. Where only a portion of the debenture issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates, and no debenture issued under the by-law shall be called for such redemption in priority to any such debenture that has a later maturity date.

Effect of
redemption

6. Where a debenture is redeemed on a date prior to maturity, such redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof.

Joint
municipal
projects

(14) Notwithstanding anything in this section, if a municipality will be liable for a portion of the annual carrying charges on a debt intended to be created on behalf of two or more municipalities, such municipality may pass a by-law providing for raising, by a special rate on all the rateable property liable therefor in the municipality in each year of the currency of the debt, its share of the principal and interest falling due in each such year, and the by-law shall provide that such share shall be determined as provided in the Act authorizing the issue of the debentures and need not provide for the raising of a specific sum in each year of the currency of the debt. R.S.O. 1960, c. 249, s. 282 (4-13).

Exchange of
debentures
permitted
R.S.O. 1970,
c. 293

(15) On request of the owner of any debenture issued by a local municipality having a population of not less than 20,000 as determined under *The Municipal Unconditional Grants Act*, the treasurer of the municipality may issue and deliver to such owner a new debenture or debentures in exchange therefor, for the same aggregate principal amount, bearing the same rate of interest and maturing on the same date as the debenture so exchanged and bearing all unmatured interest obligations, and the new debenture or debentures shall be deemed to be issued under the same by-law as the debentures so exchanged.

(16) Any new debenture mentioned in subsection 15 may be registered as to both principal and interest with provision for payment of interest by cheque, or may be payable to bearer with provision for registration as to principal only and have coupons attached for the payment of interest, but in all other respects shall be of the same force and effect as the debenture surrendered for exchange.

Fully
registered
debentures

(17) All debentures surrendered for exchange under subsection 15 shall be cancelled and destroyed in the presence of the treasurer and some other person designated for the purpose by by-law or resolution of the council of the municipality and they shall certify in the Debenture Registry Book that the debentures have been cancelled and destroyed and enter therein particulars of any new debentures issued in exchange.

Destruction
of
debentures
surrendered
for exchange

(18) A money by-law may provide for exchanges of debentures as provided for in subsection 15 on such terms and conditions as to notice or otherwise as the by-law may provide. 1970, c. 86, s. 1, *part.*

By-law to
provide for
exchange of
debentures

289. Notwithstanding any other provision in this Act,

- (a) a money by-law of a local municipality having a population of not less than 20,000 as determined under *The Municipal Unconditional Grants Act* may provide that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date, subject to the obligation of the municipality to redeem by lot annually on each anniversary of the date of such debentures a specified principal amount of such debentures upon payment by the municipality of such principal amount plus accrued interest to the date of redemption and upon giving notice as provided in this section;
- (b) the principal amount of every debenture that is called for redemption shall become due and payable on the date set for the redemption thereof and, after such date, interest ceases to accrue thereon where provision is duly made by the municipality for the payment of the principal amount thereof;
- (c) the debentures to be redeemed on each anniversary of the date of such debentures shall be selected by lot by the treasurer of the municipality at a public meeting of the council and when redeemed shall be cancelled and shall not be reissued, provided always that the principal amount of the debentures to be redeemed in any year may be reduced by the principal amount of any debentures purchased by the municipality, at a price or prices not exceeding the principal amount thereof, and surrendered for cancellation on the date fixed for redemption;

Debentures
payable on a
fixed date
subject to
the annual
redemption
by lot of a
specified
principal
amount
R.S.O. 1970,
c. 293

interest
ceases to
accrue on
date set for
redemption

debentures
to be
redeemed
may be
purchased

notice to
redeem to be
sent by mail

- (d) notice of intention to redeem any debenture shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person, if any, in whose name the debenture may be registered at the address shown in the Debenture Registry Book;

notice to
redeem to be
published

- (e) notice of intention to redeem any debenture shall be published at least thirty days prior to the date set for such redemption in such manner as the by-law may provide;

where only
portion of
debentures
payable on
fixed date

- (f) where only a portion of the debentures issued under a by-law is payable on a fixed date, the obligation of the municipality to redeem by lot annually a specified principal amount of such debentures does not apply in any year in which an instalment of principal of the remaining debentures issued under such by-law becomes due and payable; and

annual
amounts
payable to
be
approx-
imately equal

- (g) the aggregate amounts of principal and interest, or the amounts of principal, payable in each year during the currency of debentures issued under this section shall be approximately equal. 1970, c. 86, s. 2.

Consolidat-
ing
debenture
by-laws

290.—(1) Notwithstanding any other provision in this Act or any other Act, where separate debenture by-laws have been passed authorizing the borrowing of sums for two or more purposes, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council may by by-law, hereinafter called a consolidating by-law, provide for borrowing the aggregate of such sums and for issuing one series of debentures therefor.

Recitals

(2) The consolidating by-law shall clearly specify, by recital or otherwise, in respect of what separate by-laws it is passed.

Rates need
not be
imposed by
consolidat-
ing by-law

(3) It is not necessary that the consolidating by-law shall impose any rate to provide for the payment of debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose.

Consolidat-
ing by-law
may
authorize
debentures
of different
terms of
years

(4) A consolidating by-law passed under this section may authorize the issue of debentures in one series notwithstanding that some of the debentures may be for different terms of years from the other debentures to be issued thereunder, provided that the sum to be raised in each year under the consolidating by-law shall equal the aggregate of the sums that would have been raised under the separate by-laws had no consolidating by-law been passed.

Reference
to separate
by-laws not
required in
debentures

(5) Debentures issued pursuant to a consolidating by-law passed under this section need not refer to the separate by-laws in

respect of which the consolidating by-law is passed. R.S.O. 1960, c. 249, s. 283.

291.—(1) Notwithstanding section 288 and subject to the approval of the Department, a local municipality having a population of not less than 20,000 as determined under *The Municipal Unconditional Grants Act* may provide in any money by-law for the issuing of debentures that the principal shall be made payable on a fixed date with interest payable annually or semi-annually, in which case the debentures issued under the by-law shall be known as sinking fund debentures.

Sinking fund
debentures

R.S.O. 1970,
c. 293

(2) The by-law shall provide for the raising in each year during the currency of the debentures, by a special rate on all the rateable property in the municipality, of

Amounts to
be raised
annually

- (a) a specific amount, sufficient to pay the interest on the debentures; and
- (b) a specific amount for the sinking fund which, with interest at a rate not to exceed 5 per cent per annum, compounded yearly, will be sufficient to pay the principal of the debentures at maturity,

to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any other by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act.

(3) Every money by-law passed under this section shall provide that the municipality shall, under the terms of an agreement approved by the Department, deposit with a chartered bank or a trust company that is registered under *The Loan and Trust Corporations Act* the annual amount to be raised under clause b of subsection 2 and such amount shall be so deposited on or before the anniversary date in each year of the currency of the debentures.

Amounts
raised
annually to
be paid to a
bank or trust
company
R.S.O. 1970,
c. 254

(4) The bank or trust company shall receive all specific amounts raised for sinking fund purposes and the income from all the investments of the sinking fund and shall from time to time invest the money so received and may vary any investment.

Powers of
bank or
trust
company

(5) The bank or trust company may invest,

Authorized
investments
R.S.O. 1970,
c. 470

- (a) in securities in which a trustee may invest under the provisions of *The Trustee Act*;
- (b) in securities issued by the United States of America;
- (c) in such other securities as are authorized by the Lieutenant Governor in Council;
- (d) in the debentures to the payment of which the sinking fund is applicable; and

- (e) with the approval of the Department, not more than 25 per cent of the total sinking fund at any one time in other debentures of the municipality,

provided that the securities in which the sinking fund or any part thereof is invested shall mature or be redeemable at the option of the holder not later than the maturity date of the debentures to the payment of which the sinking fund is applicable.

Annual
financial
statement to
be submitted
by bank or
trust
company

(6) The bank or trust company shall, not later than the 31st day of January in each year, submit to the Department and to the auditor of the municipality a financial statement of the sinking fund at the close of the previous calendar year and such statement shall contain a list of the investments held in the sinking fund.

Surplus in
sinking
fund

(7) When, at the 31st day of December in any year, there is a balance in the sinking fund in excess of the amount then required for the retirement of the sinking fund debentures as certified by the auditor, such balance or part thereof shall, upon the written request of the municipality, be applied by the bank or trust company to the payment of the amount required for such sinking fund in the next succeeding year and the amount of the payment required to be paid to the bank or trust company in such year in accordance with subsection 3 and the levy for the sinking fund in such year shall be reduced accordingly.

Deficiency in
sinking fund

(8) When, at the 31st day of December in any year, the amount of a sinking fund is less than the amount then required for the retirement of the sinking fund debentures as certified by the auditor, the municipality shall pay to the bank or trust company an amount sufficient to make up the deficiency in the sinking fund.

Disposition
of sinking
fund at
maturity of
debentures

(9) At the maturity of the debentures for which the sinking fund was established, the bank or trust company shall pay to the treasurer of the municipality the amount accumulated in the sinking fund. 1970, c. 86, s. 3.

Debentures
expressed
in foreign
currency

292.—(1) The authority conferred upon municipalities by this Act and any other general or special Act to borrow or raise money for any purpose and to issue debentures therefor extends to and shall be deemed always to have extended to include power to borrow and raise such money and to issue such debentures expressed and payable in sterling money of Great Britain or dollars of the United States of America for such principal amount as the council considers necessary to realize the sum required for such purpose.

Annual
rates

(2) Where under any by-law of a municipality debentures issued thereunder are expressed and made payable in sterling or dollars of the United States of America, the council may in such by-law or in any amending by-law, in lieu of providing for the

raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon and to meet sinking fund payments or instalments of principal falling due in such year, provide that there shall be raised such yearly amount as may be necessary for such purposes and as the requirements for such purposes may from year to year vary. R.S.O. 1960, c. 249, s. 285 (1, 2).

(3) No by-law for the borrowing and raising of money by the issue of debentures expressed and payable in the currency of Great Britain or of the United States of America shall be passed until approved by the Department.

Approval of
Department

(4) Notwithstanding any other provision of this Act or any other Act, and in addition to all other types of debentures authorized to be issued under this Act, a local municipality having a population of not less than 75,000 as determined under *The Municipal Unconditional Grants Act* may by by-law, without the assent of the electors but subject to the prior approval of the Lieutenant Governor in Council, authorize the borrowing of money by the issue of debentures payable as to principal and interest and redemption premium, if any, in a currency other than that of Canada, the United States of America or Great Britain as the council of the municipality considers expedient. 1970, c. 86, s. 4.

Debentures
payable in
foreign
currency

R.S.O. 1970,
c. 293

293.—(1) Subject to the limitations and restrictions in this and any other Act, a corporation may incur a debt for the purposes of the corporation whether under this or any other Act, but shall not incur any debt the payment of which is not provided for in the estimates for the current year unless a by-law of the council authorizing it has been passed with the assent of the electors. R.S.O. 1960, c. 249, s. 286 (1).

Corporation
may incur
debt

(2) A corporation shall not be deemed to be incurring a debt, the payment of which is not provided for in the estimates of the current year, when it is a debt payable within the two-year or three-year term for which the council was elected at a biennial or triennial election or with respect to any of the following undertakings, works, projects, schemes, acts, matters or things, except where the whole or any part of the cost thereof is to be provided for by the issue of debentures by any municipality,

Projects for
which
corporation
not deemed
to incur
debt
payment of
which is not
provided for
in estimates

- (a) premium notes given for fire insurance;
- (b) arrangements to provide pensions under paragraph 64 of section 352;
- (c) grants for retiring allowances under section 239;
- (d) agreements for fire protection under paragraph 1 of section 352;
- (e) agreements for area fire protection under paragraph 3 of section 376;

- R.S.O. 1970,
c. 351 (f) agreements respecting policing of the whole or any part of a municipality by the Ontario Provincial Police Force under section 62 of *The Police Act*;
- R.S.O. 1970,
c. 377 (g) agreements respecting the establishment of health units under section 36 of *The Public Health Act*;
- (h) agreements for sharing the cost of services of officers and employees of municipalities or local boards;
- (i) agreements respecting maintenance and repair of boundary roads under section 410;
- (j) agreements respecting isolation hospitals under section 46 of *The Public Health Act*;
- (k) agreements for a term not exceeding five years respecting the provision, maintenance or hiring of an ambulance by a board of health under section 30 of *The Public Health Act* when such agreement has been approved by the council of the corporation;
- R.S.O. 1970,
c. 20 (l) agreements respecting the maintenance and operation of ambulances under *The Ambulance Act*;
- R.S.O. 1970,
c. 206 (m) agreements respecting homes under *The Homes for the Aged and Rest Homes Act*;
- (n) agreements respecting water supply under paragraph 2 of section 352;
- (o) agreements respecting the management and operation of systems and services under paragraph 5 of section 352;
- (p) agreements for watering or oiling highways under paragraph 7 of section 352;
- (q) agreements respecting bus franchises under paragraph 89 of subsection 1 of section 354;
- (r) agreements for furnishing public bus transportation under paragraph 90 of subsection 1 of section 354;
- R.S.O. 1970,
c. 354 (s) agreements under *The Power Commission Act* with The Hydro-Electric Power Commission of Ontario on its behalf or on behalf of Her Majesty in right of Ontario;
- (t) agreements respecting matters of employment of officers, servants and employees of the corporation or a local board thereof. R.S.O. 1960, c. 249, s. 286 (2); 1962-63, c. 87, s. 12; 1966, c. 93, s. 15; 1967, c. 55, s. 12; 1968, c. 76, s. 16 (1).

Exceptions

(3) Subsection 1 does not apply so as to require the assent of the electors to a by-law passed,

- (a) under section 295 or paragraph 53 of subsection 1 of section 354; or

- (b) for providing money for any of the purposes mentioned in paragraph 18, 37, 44, 64, 70, 71, 72 or 74 of section 352, or in subclause ii or iii of clause b of section 353, or in paragraph 50, 76, 77 or 78 of subsection 1 of section 354; or
- (c) under *The Local Improvement Act* or *The Drainage Act*; R.S.O. 1970,
cc. 255, 136
or
- (d) by the council of a city or a separated town for providing such sum as is required to pay its share of the debt of the county as agreed upon or determined by arbitration; or
- (e) by the council of a city with the approval of the Municipal Board for providing such sum as may be required to pay its share of the cost of constructing or reconstructing a bridge over any stream that constitutes a dividing line between the city and any other municipality or of reconstructing any existing bridge within the municipality; but the aggregate amount to be provided for all of such purposes in any one year shall not be more than \$10,000 where the city has a population of not more than 20,000; or \$15,000 where the city has a population of more than 20,000 and not more than 100,000; or \$20,000 where the city has a population of more than 100,000; or
- (f) by the council of any municipality with the approval of the Municipal Board for providing such sum or sums as may be required to pay or defray the cost or share of the cost of any work or improvement that, by the terms of any order of the Canadian Transport Commission or of the Municipal Board, the municipality is or has been authorized or required to undertake or pay, or of any work or improvement that, in the opinion of the Municipal Board, is or has been rendered necessary or expedient owing to the construction of any work or improvement ordered by either of the said boards; but, where any such work or improvement is or has been merely authorized but not required to be undertaken by the municipality, no sum or sums may be provided hereunder unless the work was undertaken with the approval of the Municipal Board; or
- (g) by the council of an urban municipality for providing such sum as may be required for the purchase of a site in the municipality for an armoury or drill-shed for any militia or volunteer corps having its headquarters in the municipality, if the by-law is passed by a vote of two-thirds of all the members of the council; or
- (h) for providing money for any of the purposes mentioned in section 44 of *The Public Schools Act*, or section 24 of *The Public Libraries Act*; or R.S.O. 1970,
cc. 385, 381

- (i) for providing a sum not exceeding \$5,000 for the purpose of making a grant to the University of Toronto; or
- (j) under section 455; or
- (k) for providing any sum or incurring any debt that under *The Public Health Act* may be provided or incurred without the assent of the electors; or
- (l) under section 36 of *The Public Health Act*; or
- (m) by the council of a county. R.S.O. 1960, c. 249, s. 286 (3); 1960-61, c. 59, s. 10 (3); 1961-62, c. 86, s. 38; 1968, c. 76, s. 16 (2, 3), *amended*.

R.S.O. 1970,
c. 377

Contracts
for supply
of public
utility
R.S.O. 1970,
c. 118

294.—(1) A municipal corporation with the assent of the electors may enter into a contract for the supply of any service of a public utility as defined in *The Department of Municipal Affairs Act* or of sewage works to the municipal corporation for its use or for resale or to the inhabitants thereof for their use for such term of years as the Municipal Board may approve and may with the like assent renew such contract from time to time for such further term of years as the Municipal Board may approve.

Where
particular
areas only
are bene-
fited

(2) Where a municipal corporation enters into a contract for the supply of a public utility for its use and such use is confined to a particular area of the municipality, the council may levy a special annual rate on all the rateable property in such area to defray the cost thereof. R.S.O. 1960, c. 249, s. 287.

Special
power of
county to
borrow

295.—(1) A county council may in any year borrow any sum or sums not exceeding in the whole \$20,000 over and above what is required for its ordinary expenditure and over and above any sum that the council is by this or any other Act expressly authorized to borrow without the assent of the electors.

Passing of
by-law

(2) Subject to subsection 3, the by-law shall be passed at a meeting specially called for the purpose of considering it and held not less than six weeks after the first publication of a notice of the day appointed for the meeting, which shall be published once a week for four successive weeks, and shall state the amount to be borrowed, and the purpose for which it is to be borrowed.

Adjourned
meeting

(3) The by-law may be passed at any regular or special meeting to which the consideration of it may be adjourned. R.S.O. 1960, c. 249, s. 288.

When rate
of interest
may be
varied

296.—(1) If the Municipal Board is of opinion that the current rate of interest so differs from the rate of interest payable on any municipal debentures that remain unsold or undisposed of that the sale or disposal thereof may substantially decrease or

increase the amount required to be provided under the by-law under which such debentures were issued, the Municipal Board may authorize the council, without the assent of the electors, to pass a by-law to amend such by-law so as to provide for,

- (a) a different rate of interest;
- (b) a change in the amount to be raised annually and, if necessary, in the special assessments and levies;
- (c) such other changes in the by-law or any other by-law as to the Municipal Board may seem necessary to give effect thereto;
- (d) the issue of new debentures to bear interest at the amended rate in substitution and exchange for such first-mentioned debentures; and
- (e) the cancellation of such first-mentioned debentures upon the issue of such new debentures in substitution and exchange therefor.

(2) For the purposes of this section, the hypothecation of debentures under section 328 at any time heretofore or hereafter made does not constitute a sale or other disposal thereof.

Hypothecation not a sale under this section

(3) The council may by one by-law authorized under subsection 1 amend two or more by-laws and provide for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder.

Consolidation of debentures

(4) A by-law passed under this section does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof. R.S.O. 1960, c. 249, s. 289.

Special assessments and levies

297.—(1) Where part only of a sum of money provided for by a by-law has been raised, the council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually.

Repeal of by-law, when part only of money raised

(2) The repealing by-law shall recite the facts on which it is founded, shall be appointed to take effect on the 31st day of December in the year of its passing, shall not affect any rates due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. R.S.O. 1960, c. 249, s. 290.

When to take effect

298. Subject to section 297, after a debt has been contracted under a by-law, the council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating for the payment of the debt or the interest, the surplus income from

Until debt paid certain by-laws cannot be repealed

any work or any interest therein, or money from any other source, and shall not alter any such by-law so as to diminish the amount to be raised annually, and shall not apply to any other purpose any money of the corporation that has been directed to be applied to such payment. R.S.O. 1960, c. 249, s. 291.

Penalty for neglect of officer to carry out by-law

299. Every officer of a corporation, whose duty it is to carry into effect any of the provisions of a money by-law, who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1960, c. 249, s. 292.

REGISTRATION OF MONEY BY-LAWS

Money by-laws may be registered

300.—(1) Within four weeks after the passing of a money by-law, the clerk may register a duplicate original or a copy of it certified under his hand and the seal of the corporation, in the case of a county, in the registry division in which the county town is situate and, in the case of a local municipality, in the registry division in which it is situate or, if the municipality comprises parts of two or more registry divisions, in either of them. R.S.O. 1960, c. 249, s. 293 (1).

Application to quash registered by-law, when to be made
R.S.O. 1970, c. 323

R.S.O. 1970, cc. 136, 255

(2) Subject to section 61 of *The Ontario Municipal Board Act*, every by-law, registered in accordance with subsection 1 or before the sale or other disposition of the debentures issued under it, and the debentures are valid and binding, according to the terms thereof, and the by-law shall not be quashed unless within one month after the registration in the case of by-laws passed under *The Drainage Act* or *The Local Improvement Act* and, in the case of other by-laws, within three months after the registration an application or action to quash the by-law is made to or brought in a court of competent jurisdiction and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought, is registered in such registry office within such period of three months, or one month, as the case may be. R.S.O. 1960, c. 249, s. 293 (2), *amended*.

Time when by-law to be valid and binding

(3) After the expiration of the period prescribed by subsection 2, if no application or action to quash the by-law is made or brought, the by-law is valid and binding according to its terms.

Quashing part of by-law

(4) If an application or action to quash the by-law is made or brought within the period prescribed by subsection 2, but part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, after the expiration of that period is valid and binding according to its terms.

(5) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered and, after such dismissal and the expiration of the period prescribed by subsection 2, if it has not already expired, the by-law, or so much of it as is not quashed, is valid and binding according to its terms. Dismissal of application

(6) Nothing in this section makes valid a by-law that requires but has not received the assent of the electors or a by-law where it appears on the face of it that any of the provisions of subsections 1 and 3 of section 288 have not been substantially complied with. Illegal by-laws not validated

(7) Failure to register a by-law as prescribed by this section does not invalidate it. R.S.O. 1960, c. 249, s. 293 (3-7). Failure to register

301. The Lieutenant Governor in Council may make such regulations as he considers necessary for carrying out the purposes of this Part. 1970, c. 86, s. 5. Regulations

PART XIII

YEARLY RATES AND ESTIMATES

302.—(1) The council of every local municipality in each year shall levy on the whole of the assessment for property and business assessment, according to the last revised assessment roll, a sum equal to the aggregate of the sums required by law to be provided by the council for school purposes and for any board, commission, county or other body. R.S.O. 1960, c. 249, s. 294 (1). Rates for school purposes and boards, etc.

(2) The council of every local municipality in each year shall levy on the whole of, Rates for general purposes on commercial property and business assessment

(a) the assessment for real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or local board thereof; and

(b) the business assessment; and

(c) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipe lines and the assessment of telephone and telegraph companies,

according to the last revised assessment roll, a sum equal to the proportion of the aggregate amount of the sums necessary for the

payment within the year of the sums adopted under section 307 for general purposes, not including any sums for the purposes referred to in subsection 1, that the total of the assessments under clauses *a*, *b* and *c* bears to the total assessment for real property and business assessment according to the last revised assessment roll. R.S.O. 1960, c. 249, s. 294 (2); 1966, c. 93, s. 16; 1968-69, c. 74, s. 14.

Rates for
general
purposes on
residential
and farm
property

(3) The council of every local municipality in each year shall levy on the whole assessment for real property, except the assessment for real property mentioned in clauses *a* and *c* of subsection 2, according to the last revised assessment roll, a sum equal to the proportion of the aggregate amount of the sums necessary for payment within the year of the sums adopted under section 307 for general purposes, not including any sums for the purposes referred to in subsection 1, that the total of the assessment for real property, except the assessment for real property mentioned in clauses *a* and *c* of subsection 2, according to the last revised assessment roll, bears to the total assessment for real property and business assessment according to such roll, less the amount of the estimated revenue from payments to be received in that year by the municipality under section 7 of *The Municipal Unconditional Grants Act*. R.S.O. 1960, c. 249, s. 294 (3).

R.S.O. 1970,
c. 293

Levy
authorized
before
estimates
adopted

303.—(1) Notwithstanding section 302, the council of every local municipality may by by-law passed before the adoption of the estimates in any year provide that in that year and in each succeeding year the council may, before the adoption of the estimates for the year, levy on the whole of the assessment for real property according to the last revised assessment roll a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the preceding year on residential real property of public school supporters, and such by-law shall remain in force from year to year until it is repealed and any by-law repealing such by-law shall be effective only at the end of any year. 1967, c. 55, s. 13 (1).

Business
assessment

(2) Where the council of a local municipality has not provided for taking the assessment of business during the same year in which the rates of taxation thereon are to be levied, the council, notwithstanding section 302, may by by-law passed before the adoption of the estimates in any year provide that in that year and in each succeeding year the council may, before the adoption of the estimates for the year, levy on the whole of the business assessment according to the last revised assessment roll a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the preceding year on business assessment of public school supporters, and such by-law shall remain in force from year to

year until it is repealed and any by-law repealing such by-law shall be effective only at the end of any year. 1967, c. 55, s. 13 (2); 1968-69, c. 74, s. 15 (1).

(3) Where in any year a levy is made under this section, the amount required to be raised in that year by levy under section 302 shall be reduced by the amount to be raised by the levy under this section. 1966, c. 93, s. 17 (2).

Levy under
s. 302 to be
reduced

(4) The provisions of this Act with respect to the levy of the yearly rates and the collection of taxes apply *mutatis mutandis* to the levy of rates and collection of taxes under this section. 1968-69, c. 74, s. 15 (2).

Application
provisions
re levy and
collection of
taxes

304.—(1) Notwithstanding any general or special Act, the council of a local municipality designated by the Lieutenant Governor in Council may pass by-laws to levy an annual tax upon a university designated by the Lieutenant Governor in Council, not exceeding the sum of \$25 a year for each full-time student enrolled in such university on the 1st day of December in the year preceding the year of levy as determined by the Minister of University Affairs.

Universities
liable to tax

(2) Any tax levied under a by-law passed under subsection 1 is collectable in the same manner as municipal taxes are collectable and is a special lien on the land under section 511.

How tax
collectable

(3) The tax collected under this section shall be credited by the municipality to the general fund of the municipality.

Tax to be
credited to
general funds

(4) The assessment of a municipality that levies or could have levied a tax under this section that is used for apportioning,

Municipal
assessment
deemed
increased

(a) a county rate under section 73 of *The Assessment Act*;

(b) a metropolitan levy under section 214 of *The Municipality of Metropolitan Toronto Act*, except a levy for public or secondary school purposes;

R.S.O. 1970,
c. 295

(c) a regional levy under section 92 of *The Regional Municipality of Ottawa-Carleton Act*; or

R.S.O. 1970,
c. 407

(d) a regional levy under section 119 of *The Regional Municipality of Niagara Act*,

R.S.O. 1970,
c. 406

shall be deemed to be increased by an amount that would have produced the amount of the tax levied or that could have been levied under this section by the taxation of real property at the rate applicable to residential and farm property in the preceding year for all purposes other than school purposes. 1970, c. 14, s. 1.

305.—(1) Notwithstanding any other provision in this Act or any other general or special Act, or in any order of the Municipal Board, or in any municipal by-law or resolution, or in any contract, or other instrument, a municipal rate levied for any of

Where rates
to be levied
on full
values

the purposes set out in paragraph 37 of section 352 or in section 353 or for welfare assistance purposes or for any educational purpose included in the county levy shall be levied upon the full value of all the rateable property in the municipality, and no fixed assessment or partial or total exemption from assessment or taxation applies thereto, except as provided in section 3 of *The Assessment Act*. R.S.O. 1960, c. 249, s. 295 (1); 1968-69, c. 74, s. 16.

R.S.O. 1970,
c. 32

Fixed as-
sessment
exemptions
to be
included

(2) The council of a county in levying a rate for any of the purposes set out in subsection 1 shall add to the amount of the equalized assessment of each local municipality within the county any amounts exempted therefrom by reason of a fixed assessment. R.S.O. 1960, c. 249, s. 295 (2).

Federation
of Agri-
culture,
special rate

306.—(1) The council of a township may, subject to the approval of the Department, by by-law assess and levy a special rate not exceeding one-half of one mill upon the ratepayers of the township who are entered on the assessment roll as farmers as the annual membership fees of such persons in the Federation of Agriculture.

Power to
vary spe-
cial rate

(2) The council of a township may, subject to the approval of the Department, by by-law vary the special rate assessed and levied under subsection 1, but not so as to exceed one-half of one mill.

By-law in
force until
repealed

(3) A by-law passed under subsection 1 or 2 remains in force until amended or repealed, and it is not necessary to pass such by-law annually. R.S.O. 1960, c. 249, s. 296 (1-3).

How special
rate may
be avoided

(4) Any person liable to a special rate under a by-law passed under subsection 1 may, within thirty days after delivery of the notice of taxes under section 521, notify in writing the clerk that he objects to the assessment and levy by the by-law authorized by subsection 1, and thereupon the clerk shall amend the collector's roll by striking out such assessment and levy in respect of such person and shall write his name or initials against such amendment and deliver a notice of taxes amended accordingly to such person. 1968, c. 76, s. 17; 1968-69, c. 74, s. 17.

Nature of
special rate

(5) The rate mentioned in subsection 1 shall be assessed, levied and collected in the same manner as local rates and shall be similarly calculated upon the assessments as finally revised and shall be entered in the collector's roll in a special column the heading whereof shall be designated "Federation of Agriculture Membership Fees", but does not form a charge upon land and is not subject to penalty for non-payment.

Deposit of
sums col-
lected

(6) The township treasurer shall deposit the sums collected under this section in a special account and shall from time to time upon demand pay such sums to the treasurer of the Federation of Agriculture for the county in which the township is situate.

(7) The township treasurer shall on the date fixed by statute for the return of the collector's roll prepare and forward to the treasurer of the Federation of Agriculture for the county in which the township is situate a list of the names of the ratepayers to whom the by-law mentioned in subsection 1 is applicable and whose rates thereunder have not been collected, and thereupon the duty of the township to collect such rates terminates.

Termination
of duty to
collect

(8) The township treasurer shall deduct from the sums collected such amounts for the services rendered as may be authorized in writing by the treasurer of the Federation of Agriculture for the county in which the township is situate and shall pay such amounts into the general funds of the township. R.S.O. 1960, c. 249, s. 296 (5-8).

Payment of
services

307.—(1) The council of every municipality shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the municipality, including a sum sufficient to pay all debts of the corporation falling due within the year and any amounts required to be raised for sinking funds, and including the sums required by law to be provided by the council for school purposes and for any board, commission or other body, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Department may from time to time prescribe.

Yearly
estimates
and contents

(2) In preparing the estimates the council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for the cost of collection, abatement of and discount on taxes and for uncollectable taxes and may provide for taxes that it is estimated will not be collected during the year and for such other reserves within such limits as to type and amount as the Department may approve, but shall not make any allowance for payments to be received during the current year under section 7 of *The Municipal Unconditional Grants Act*.

Allowances
to be
made in
estimates

R.S.O. 1970,
c. 293

(3) One by-law or several by-laws for levying the rates may be passed as the council considers expedient.

Rating
by-laws

(4) The Department may prescribe the form of estimates to be prepared by the council and may from time to time vary the same.

Form of
estimates

(5) The council may by by-law require that the estimates for the current year of every board, commission or other body for which the council is by law required to levy any rate or provide money shall be submitted to the council on or before the 1st day of March in each year, and that such estimates shall be in the form and give the particulars that the by-law prescribes. R.S.O. 1960, c. 249, s. 297.

Yearly
estimates
from other
boards, etc.

Reserve
funds
R.S.O. 1970,
c. 118

308.—(1) Every municipality as defined in *The Department of Municipal Affairs Act* and every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory may in each year, if authorized by a two-thirds vote of the members, provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds, provided that, where the approval of the council is required by law for a capital expenditure or the issue of debentures of or on behalf of a local board, the approval of the council of a provision in the estimates of the local board for a reserve fund shall be obtained. R.S.O. 1960, c. 249, s. 298 (1).

Investments
and income

R.S.O. 1970,
c. 470

(2) The moneys raised for a reserve fund established under subsection 1 shall be paid into a special bank account and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings derived from the investment of such moneys form part of the reserve fund. R.S.O. 1960, c. 249, s. 298 (2); 1962-63, c. 87, s. 13 (1).

Consolidated
bank account

(3) The council may by by-law provide that, instead of a separate bank account being kept for each reserve fund, a consolidated bank account may be kept in which there may be deposited the moneys raised for all reserve funds established under this section but which consolidated bank account shall be so kept that it will be possible to determine therefrom the true state of each reserve fund. 1962-63, c. 87, s. 13 (2).

Expenditure
of reserve
fund
moneys

(4) The moneys raised for a reserve fund established under subsection 1 shall not be expended, pledged or applied to any purpose, other than that for which the fund was established, without the approval of the Department.

Auditor to
report on
reserve
funds

(5) The auditor in his annual report shall report on the activities and position of each reserve fund established under section 1. R.S.O. 1960, c. 249, s. 298 (3, 4).

Contribu-
tions re
expenses
incurred by
corporation
re proposed
subdivision
of land

309.—(1) Where a contribution is received by a municipal corporation in consideration of the expense incurred or to be incurred by the corporation as a result of a proposed subdivision of land, such contribution shall be used only to meet expenditures for work done within the subdivision or for the benefit or use of the occupiers or subsequent occupiers of the land within the subdivision or to meet expenditures incurred wholly or in part by reason of the subdivision of such land and, where a contribution is made for a specific purpose, it may be used only to meet expenditures for such purpose. R.S.O. 1960, c. 249, s. 299 (1).

Special bank
account

(2) Such contributions shall be paid into a special bank account, and subsections 2 and 3 of section 308 apply *mutatis mutandis* thereto. 1962-63, c. 87, s. 14.

(3) Notwithstanding subsection 1, if any of the contributions referred to in subsection 1 are not required or likely to be required for the purposes mentioned in subsection 1, they may, with the approval of the Department, be expended for some other purpose. R.S.O. 1960, c. 249, s. 299 (3).

Use for other
purposes

310.—(1) Where the amount collected falls short of the sum required, the council may direct that the deficiency be made up from any unappropriated fund, or, if there is no such fund, the deficiency may be deducted proportionately from the sums estimated, or from any one or more of them.

If the
amount
collected
falls short

(2) Where the amount collected exceeds the estimates, the surplus forms part of the general funds and is at the disposal of the council, unless otherwise specially appropriated. R.S.O. 1960, c. 249, s. 300.

When sums
collected
exceed
estimate

311. The rates imposed for any year shall be deemed to have been imposed and to be due on and from the 1st day of January of such year unless otherwise expressly provided by the by-law by which they are imposed. R.S.O. 1960, c. 249, s. 301.

Rates to be
due on Janu-
ary 1st

PART XIV

FINANCES

ACCOUNTS AND INVESTMENTS

312. Where a municipality has moneys not required immediately by the municipality, such moneys may be invested in bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or the Province of Ontario, in term deposits with any chartered bank or in term deposits with or guaranteed investment certificates or debentures of any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*, provided that the bonds, debentures or other evidences of indebtedness, term deposits or guaranteed investment certificates become due and payable before the moneys invested therein are required by the municipality, and all interest thereon shall be credited to the fund from which the moneys are invested. 1970, c. 135, s. 5.

Investment
of moneys
not immedi-
ately
required

R.S.O. 1970,
c. 254

313.—(1) Subject to subsections 2 and 3, money received by any municipal corporation from the sale or hypothecation of any debentures shall be kept in a separate account and shall be used only for the purposes for which it was raised and shall not be applied towards payment of the current or other expenditure of the municipality. R.S.O. 1960, c. 249, s. 303 (1).

Application
of proceeds
of deben-
tures

Application
of surplus
funds raised
on debentures

(2) Subject to subsection 3, when the amount realized from the debentures is in excess of that required for the purpose or purposes for which the debentures were issued, the excess amount shall be applied as follows:

1. Where the amount is sufficient to redeem one or more debentures of the latest maturity, it shall be applied for that purpose if any such debentures are redeemable.
2. Where no such debentures are redeemable or where the amount is not sufficient to redeem a debenture or where a balance remains after redemption as required by paragraph 1, the amount or the balance, as the case may be, shall be applied on the annual payments of principal and interest on the debentures until the amount or the balance, as the case may be, has all been so applied, and the levies required for such purpose shall be reduced accordingly. R.S.O. 1960, c. 249, s. 303 (2); 1966, c. 93, s. 18.

Application
of amounts
not required
for purposes
of debentures

(3) Where the whole or any part of the amount realized from the sale or hypothecation of any debentures is not required for the purpose or purposes for which the debentures were issued, it may be applied to buy back the debentures or, with the approval of the Municipal Board, may be applied to meet the whole or a portion of any other capital expenditure the debt charges for which if raised by taxation would be raised by taxation levied upon the assessment of the same class of ratepayers as would have been levied upon to meet the debt charges if the amount had been expended for the purpose or purposes for which the debentures were issued. R.S.O. 1960, c. 249, s. 303 (3).

Use of
proceeds
of sale of
property
acquired
from proceeds
of sale of
debentures

(4) Where real or personal property acquired with all or part of the proceeds of the sale of debentures is sold while any part of the debentures remains outstanding, the net proceeds of the sale, to the extent of the amount of principal and interest then outstanding on such debentures, shall be applied in accordance with subsections 2 and 3. 1961-62, c. 86, s. 39.

Accounts,
how to be
kept

314.—(1) Every council shall,

- (a) keep a separate account of every debt;
- (b) where the whole of a debt is not payable in the current year, keep in respect thereof,
 - (i) an additional account for the interest, if any, and
 - (ii) an additional account for the sinking fund or the instalments of principal,

distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted; and

- (c) keep the accounts so as to exhibit at all times the state of every debt and the amount of money raised, obtained and appropriated for the payment of it.

(2) The council of a city may by by-law provide and direct that, instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of the interest account upon every debt and that provision has been made to meet the interest upon every debt.

Consolidated
interest
account

(3) The council of a city may by by-law provide that, instead of a separate bank account being kept for the sinking fund of every debt that is to be paid by means of a sinking fund, a consolidated bank account may be kept in which there may be deposited the sinking funds of all debts that are to be paid by such means, but which consolidated bank account shall be so kept that the requirements of the sinking fund of every debt are duly provided for. R.S.O. 1960, c. 249, s. 304.

Consolidated
sinking fund
account

315. If, in any year, after paying the interest and appropriating the necessary sum to the sinking fund or in payment of the instalments, there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or for the sinking fund or in payment of the principal. R.S.O. 1960, c. 249, s. 305.

Application
of surplus
money

316. Notwithstanding any general or special Act, where the revenue derived from the investment of sinking funds together with other accretions exceeds the aggregate requirements of all by-laws applicable thereto and the excess is represented in a consolidated surplus account or other separate funds, the commissioner of finance, the treasurer of the municipality or the trustees of the sinking fund, as the case may be, may with the approval of the council and the Municipal Board apply the amount of such surplus to the sinking fund of each debt proportionately as the amount of the sinking fund of each such debt bears to the aggregate of the sinking funds of all such debts and, notwithstanding sections 319 and 320, the amount of such surplus not so applied may with the approval of the council and the Municipal Board be transferred to the general funds of the municipality. R.S.O. 1960, c. 249, s. 306.

Where
surplus in
sinking fund

317. Notwithstanding any general or special Act, when the amount in a sinking fund is sufficient, with the estimated revenue therefrom, to pay the principal of the debt as it becomes due, the council with the approval of the Municipal Board may not be required to raise or provide any further sum with respect to such debt. R.S.O. 1960, c. 249, s. 307.

Where
amount in
sinking fund
sufficient

Notice of
appoint-
ment

318. Notice of an appointment for the hearing by the Municipal Board of an application for approval under section 316 or 317 shall be given to such persons and in such manner as the Municipal Board may direct. R.S.O. 1960, c. 249, s. 308.

Money
levied for a
sinking fund
not to be
diverted

319. No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the corporation. R.S.O. 1960, c. 249, s. 309.

Liability of
members for
diversion
of sinking
fund

320.—(1) If the council applies any money raised for a special purpose or collected for a sinking fund in paying current or other expenditure, the members who vote for such application are personally liable for the amount so applied, which may be recovered in a court of competent jurisdiction.

Action by
ratepayer

(2) If the council, upon the request in writing of a ratepayer, refuses or neglects for one month to bring an action therefor, the action may be brought by any ratepayer on behalf of himself and all other ratepayers.

Disqualifica-
tion

(3) The members who vote for such application are disqualified from holding any municipal office for two years. R.S.O. 1960, c. 249, s. 310.

Statement
of treasurer
as to amount
required
for sinking
fund

321.—(1) The treasurer of a municipality in which any sum is required by law to be raised for a sinking fund shall prepare and lay before the council in every year, previous to the striking of the annual rate, a statement showing what amount will be required for that purpose.

Offence

(2) For every contravention of this section, the treasurer is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. R.S.O. 1960, c. 249, s. 311.

Penalty
where coun-
cil neglects
to levy for
sinking
fund

322. If the council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the council is disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount. R.S.O. 1960, c. 249, s. 312.

COMMISSION OF INQUIRY

Commission
of inquiry

323.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister of Municipal Affairs, may issue a commission to inquire into any of the affairs of any municipality, or local board thereof, and any matter connected therewith, and the commissioner has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 249, s. 320 (1); 1964, c. 68, s. 7.

R.S.O. 1970,
c. 379

When com-
mission may
issue

(2) A commission may be recommended at the instance of the Department or upon the request in writing of not less than

one-third of the members of a council or of not less than fifty ratepayers assessed as owners and resident in the municipality.

(3) The expenses of and incidental to the execution of the commission, including the fees and disbursements of the commissioner, shall be fixed and certified by the Minister, and forthwith be paid by the municipality. R.S.O. 1960, c. 249, s. 320 (2, 3).

Expenses of
commission

DEBENTURES

324.—(1) Subject to subsection 3, a debenture or other like instrument shall be sealed with the seal of the corporation, and signed by the head of the council or by some other person authorized by by-law to sign it, and by the treasurer.

Debentures,
how to be
executed

(2) A debenture may have coupons for the interest attached to it, which shall be signed by the treasurer and his signature to them may be written or engraved, lithographed, printed or otherwise mechanically reproduced.

Execution
of coupons

(3) The signature of the head of the council of the corporation to all debentures or other like instruments issued by the corporation may be written or engraved, lithographed, printed or otherwise mechanically reproduced and, if such debentures or other like instruments are countersigned in writing by the deputy treasurer, the signature of the treasurer thereon may be written or engraved, lithographed, printed or otherwise mechanically reproduced.

Execution
of debentures

(4) A debenture may be made payable to bearer or to a named person or bearer and the full amount of it is recoverable notwithstanding its negotiation by the corporation at a discount.

Full amount
of debentures
sold at a
discount
recoverable

(5) Any debenture heretofore or hereafter issued is sufficiently signed by the head of the council if it bears the signature, as hereinbefore provided in this section, of the person who was the head of the council either at the date of the debenture or at the time when it was issued. R.S.O. 1960, c. 249, s. 321.

Signature to
debentures

325. Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture that has matured has been paid by the corporation, the by-law and the debentures issued under it are valid and binding upon the corporation. R.S.O. 1960, c. 249, s. 322.

Debentures
on which
payment has
been made
for one year
to be valid

326.—(1) Where a debenture contains or has endorsed upon it a provision to the following effect:

Mode of
transfer
may be pre-
scribed

This debenture, or any interest therein, is not, after a certificate of ownership has been endorsed thereon by the treasurer of this corporation, transferable, except by entry by the treasurer in the Debenture Registry Book of the Corporation at the

the treasurer, on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate

of ownership and shall enter in a book, to be called the Debenture Registry Book, a copy of the certificate and of every certificate that is subsequently given and shall also enter in such book a memorandum of every transfer of such debenture.

Require-
ments as to
endorsing
certificate
of ownership

(2) A certificate of ownership shall not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, which authority shall be retained and filed by the treasurer.

Transfer by
entry in
registry
book

(3) After a certificate of ownership has been endorsed, the debenture is transferable only by entry by the treasurer in the Debenture Registry Book, as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney. R.S.O. 1960, c. 249, s. 323.

Registra-
tion of
debenture
as to
principal
and
interest

(4) A debenture may be registered as to both principal and interest in which case the interest thereon shall be paid by cheque and the debenture may be referred to as a fully registered debenture.

When
Debenture
Registry
Book may
be main-
tained out-
side Canada

(5) Where debentures are payable in a currency other than that of Canada, the council may provide that the Debenture Registry Book of the corporation in respect of such debentures be maintained outside of Canada by a corporation or person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the council considers appropriate. 1970, c. 86, s. 7.

Replace-
ment of lost
debentures

327. Where a debenture is defaced, lost or destroyed, the council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. R.S.O. 1960, c. 249, s. 324.

Borrowing
by hypothec-
ation of
debentures

328.—(1) A council, pending the sale of a debenture, or in lieu of selling it, may by by-law or resolution authorize the head and treasurer to raise money by way of loan on the debenture and to hypothecate it for the loan.

Application
of proceeds
of loan

(2) The proceeds of every such loan shall be applied to the purposes for which the debenture was issued, but the lender shall not be bound to see to the application of the proceeds, and, if the debenture is subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan.

Hypotheca-
tion not to
prevent sub-
sequent sale
of debentures

(3) Subject to subsection 2, the redemption of a debenture heretofore or hereafter hypothecated shall not be deemed to have prevented and does not prevent the subsequent sale thereof. R.S.O. 1960, c. 249, s. 325.

329.—(1) Subject to subsection 2, a corporation shall not make or give any bond, bill, note, debenture or other undertaking for the payment of a less amount than \$50, and any such bond, bill, note or debenture is void. Debentures, etc., not to be for less sums than \$50

(2) A debenture issued under the authority of any by-law providing for payment of principal and interest together yearly so computed and apportioned that the sum of both principal and interest is an annual sum of not less than \$50, whether the debenture is issued with or without coupons, shall be deemed to be a debenture of not less than \$50 within the meaning of this section, and all debentures so issued under such a by-law and otherwise legal are valid. Proviso as to debentures issued for sums that include principal and interest R.S.O. 1960, c. 249, s. 326.

330.—(1) Where on the sale of the whole or any part of an issue of debentures a premium is derived and moneys in addition to the principal sum of the debentures are required for the purpose or purposes for which the debentures were issued, the premium shall be applied to such purpose or purposes. Where debentures sold at premium

(2) Where the whole or any part of the premium is not required for the purpose or purposes for which the debentures were issued, the amount of the premium or of the part not so required shall be applied as follows: Idem

- (a) Where the amount is sufficient to redeem one or more debentures of the latest maturity, it shall be applied for that purpose.
- (b) Where the amount is not sufficient to redeem a debenture or where a balance remains after redemption as required by clause *a*, the amount or the balance, as the case may be, shall be applied on the first annual payment of principal and interest on the debentures, and the levy made in the first year for such purpose shall be reduced accordingly.

(3) Where on the sale of the whole or any part of an issue of debentures of a municipality a deficit is sustained and the amount of the deficit or any part thereof is required for the purpose or purposes for which the debentures were issued and was not fully estimated and provided for in the amount of the debenture issue, the amount of the deficit or the part so required, Deficit on sale of debentures

- (a) shall be added to the sum to be raised for the first annual payment of principal and interest on the debentures and the levy made in the first year for such purpose; or
- (b) shall be added in equal portions to the sum to be levied for the annual payment of principal and interest on the debentures in each year commencing with the first year in which such levy is made and annually thereafter over such period of years not exceeding five years in all as may be approved by the Municipal Board,

and the levy made in each of such years shall be increased accordingly. R.S.O. 1960, c. 249, s. 327.

Tenders for
debentures

331. When a municipal corporation intends to borrow money on debentures under this or any other Act, the council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. R.S.O. 1960, c. 249, s. 328.

TEMPORARY LOANS

Current
borrowings

332.—(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note such sums as the council considers necessary to meet, until the taxes are collected, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide. R.S.O. 1960, c. 249, s. 329 (1).

Limit at any
one time

(2) The amount that may be borrowed at any one time for the purposes mentioned in subsection 1, together with the total of any similar borrowings that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per cent of the uncollected balance of the estimated revenues of the corporation as set forth in the estimates adopted for the year. R.S.O. 1960, c. 249, s. 329 (3).

Treasurer
to furnish
lender with
copy of
by-law, etc.

(3) At the time that any amount is borrowed under this section, the treasurer shall furnish to the lender a copy of the by-law authorizing the borrowing and a statement showing the nature and amount of the estimated revenues of the current year not yet collected or, where the estimates for the year have not been adopted, a statement showing the nature and amount of the estimated revenues of the corporation as set forth in the estimates adopted for the next preceding year, and also showing the total of any amounts borrowed under this section that have not been repaid. R.S.O. 1960, c. 249, s. 329 (4); 1966, c. 93, s. 19 (2).

Temporary
application
of estimates
of preceding
year

(4) Until such estimates are adopted, the limitations upon borrowing prescribed by subsection 2 shall temporarily be calculated upon the estimated revenues of the corporation as set forth in the estimate adopted for the next preceding year. R.S.O. 1960, c. 249, s. 329 (5); 1966, c. 93, s. 19 (3).

Lender not
bound by
application
of borrow-
ings, etc.

(5) The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application.

(6) Any promissory note made under the authority of this section shall be executed in the same manner as a debenture as provided in subsection 1 of section 324, and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Execution of promissory notes

(7) The council may by by-law provide or authorize the head and treasurer to provide by agreement that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the corporation for the current year and for any preceding years as and when such revenues are received; provided that such charge does not defeat or affect and is subject to any prior charge then subsisting in favour of any other lender.

Creation of charge

(8) Any agreement entered into under subsection 7 shall be sealed with the corporate seal and signed by the head and treasurer.

Execution of agreements

(9) If the council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor is disqualified from holding any municipal office for two years.

Penalty for excess borrowings

(10) If the council authorizes the application of any revenues of the corporation charged under the authority of this section otherwise than in repayment of the loan secured by such charge, the members who vote for such application are personally liable for the amount so applied, which may be recovered in a court of competent jurisdiction.

Penalty for misapplication of revenues by council

(11) If any member of the council or officer of the corporation applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he is personally liable for the amount so applied, which may be recovered in a court of competent jurisdiction.

Penalty for misapplication of revenues by officials

(12) Subsections 9, 10 and 11 do not apply,

Saving clauses as to penalties

(a) to a council or any member of a council or officer of a corporation acting under an order or direction issued or made under the authority of Part III of *The Department of Municipal Affairs Act*; or

R.S.O. 1970, c. 118

(b) in any case where application of the revenues of the corporation is made with the consent of the lender in whose favour a charge exists. R.S.O. 1960, c. 249, s. 329 (7-14); 1966, c. 93, s. 19 (4).

333. Where by this or any other Act power is conferred on a corporation to borrow money, it includes, pending the issue and sale of the debentures, the power to agree with a bank or person

Temporary advances

for temporary advances from time to time to meet expenditures incurred, up to the total of the amount of the debentures authorized by the Municipal Board and any further amount that has been authorized by the Municipal Board. R.S.O. 1960, c. 249, s. 330; 1966, c. 93, s. 20.

Power to
borrow to
meet guar-
antee of
debentures

334. When a corporation guarantees the payment of the principal or interest of any bonds or debentures and default is made in payment of the principal or interest by the person primarily liable therefor, the council of the corporation may agree with any bank or person for temporary advances to meet the amount in default in any one year pending the collection of such amount by a rate on all the rateable property in the municipality or, where the guarantee is by or on behalf of a section or portion of a township, by a rate on all the rateable property in such section or portion. R.S.O. 1960, c. 249, s. 331.

PART XV

ACQUISITION OF LAND AND COMPENSATION

LAND TAKEN OR INJURIOUSLY AFFECTED

Interpre-
tation

335. In this Part,

- (a) "expropriation" means taking without the consent of the owner, and "expropriate" and "expropriating" have corresponding meanings;
- (b) "judge" means a judge of the county or district court of the county or district in which the land or any part of it is situate;
- (c) "owner" includes a mortgagee, lessee, tenant, occupant, and a person entitled to a limited estate or interest in land, trustee in whom land is vested, a committee of the estate of a mentally incompetent person, an executor, an administrator, and a guardian. R.S.O. 1960, c. 249, s. 332.

Power to
acquire or
expropriate
land

336.—(1) The council of every corporation may pass by-laws for acquiring or expropriating any land required for the purposes of the corporation, and for erecting and repairing buildings thereon, and for making additions to or alterations of such buildings, and may sell or otherwise dispose of the same when no longer so required. R.S.O. 1960, c. 249, s. 333 (1).

Lease

(2) Without limiting the generality of this section, in subsection 1 "otherwise dispose of" shall be deemed to include and to have always included a lease. 1967, c. 55, s. 14.

(3) Where in the exercise of its powers of acquiring or expropriating land it appears to the council that it can acquire a larger quantity of land from any particular owner at a more reasonable price and on terms more advantageous than those upon which it could obtain the part immediately required for its purposes, the council may acquire or expropriate such larger quantity and may afterwards sell and dispose of so much of it as is not so required.

Taking more land than required

(4) A by-law for entering on or expropriating land shall contain a description of the land and, if it is proposed to expropriate an easement or other right in the nature of an easement, a statement of the nature and extent of the easement to be expropriated.

Land to be described in by-law, etc.

(5) A municipality as defined in *The Department of Municipal Affairs Act*, including The Municipality of Metropolitan Toronto, that has authority to expropriate land may, with the approval of the Municipal Board, exercise this authority in respect of the land of another such municipality. 1964, c. 68, s. 8.

Power to expropriate land of another municipality R.S.O. 1970, c. 118

337.—(1) Any land acquired or taken by a corporation in the exercise of the powers conferred by any general or special Act in excess of the land actually required for the opening, widening, extension or straightening of a highway may be used in or towards making compensation by way of restitution to the owner of other land taken for or in connection with the work, and the corporation may lawfully exercise such powers in pursuance of an agreement to that effect with such owner or with a view to making or proposing to make such an agreement.

Power to use excess land by way of compensation to owners

(2) If in any proceeding to fix compensation for land taken by it the corporation offers to transfer or assure additional or other land to the owner by way of enlarging the remainder of his parcel or in substitution for his parcel, such offer shall be taken into account and dealt with in the award and, if the award is based on such transfer being made, the offer is binding on the corporation in the terms fixed by the award (subject to any right of appeal) and the offer and final award together constitute an agreement between the parties, and the owner is entitled to have such additional or substituted land assured him in accordance therewith.

Offer to transfer excess land by way of compensation to be considered in award, award to be binding

(3) In such case, upon the application of the corporation or of an interested party, the Municipal Board may make such orders to compel the taking by the corporation of such additional land for the purposes of the agreement and as to the vesting of the title to the land in accordance with the agreement as may be necessary to protect and enforce the rights of all parties interested. R.S.O. 1960, c. 249, s. 334, *amended*.

Power of Municipal Board to order performance of agreement

Sale of land
by council,
when not
to be open
to question

338. The determination of a council as to the time when, the manner in which, the price for which or the person to whom any property of the corporation that the council may lawfully sell, shall be sold, is not open to question, review, or control by any court, if the purchaser is a person who may lawfully buy and the council acted in good faith. R.S.O. 1960, c. 249, s. 335.

DEFERRED WIDENING, ETC., OF HIGHWAY

Interpre-
tation
R.S.O. 1970,
c. 255

339.—(1) In this section, “highway” includes “street” as defined in *The Local Improvement Act*.

By-law may
fix future
date for
widening,
etc.

(2) A by-law of the council of a local municipality for establishing or laying out, or for extending, widening or diverting, a highway or part of a highway may provide that the corporation shall not enter immediately on the land required to be taken or proceed to carry out the work but that the same shall be deferred until a day named therein not less than three and not more than ten years after the date of the passing of the by-law.

Entry
deferred
accordingly

(3) Subject to subsection 8, the corporation shall not enter on any land required to be taken before the day named in such by-law unless by leave of the judge or by order of the Municipal Board made as hereinafter provided.

By-law not
to be repeal-
ed except
with leave of
Municipal
Board

(4) The by-law shall be binding upon the corporation and shall not be repealed or altered except by a vote of two-thirds of the members of the council and with leave of the Municipal Board, such leave to be granted the corporation only for exceptional reasons not apparent or existing when the by-law was passed and after hearing the owners of the lands proposed to be taken and on such terms as the Board may determine in regard to the revesting of the land taken and the payment to each owner of the damages, if any, sustained by him in consequence of the passing of the by-law or of so much of the by-law as is proposed to be altered and his costs.

Registration
of plan in
advance

(5) Where the council proposes to pass a by-law under this section, it may register in the proper registry office a draft plan of the contemplated work with any supplementary memorandum that may be needed to show its substantial features and to furnish adequate local description to comply with *The Registry Act*, and the registrar shall enter the same on the abstract index for each parcel of land required to be taken; but, if the by-law is not passed within six months after such registration, the registration shall be deemed of no effect and the corporation shall forthwith cause a certificate signed by the mayor or reeve and clerk and sealed with the corporation’s seal, stating that no by-law was passed, to be registered in like manner in the registry office.

R.S.O. 1970,
c. 409

Land taken
shall vest
at once in
corporation
on conditions

(6) After the passing of the by-law and subject to any order made by the Municipal Board under subsection 4, the land required to be taken for the work shall be deemed to be vested in

the corporation for the purposes of a highway subject to the right of the owner or his assigns to remain in the possession and enjoyment thereof without impeachment of waste either wanton or permissive until entry by the corporation as aforesaid and to utilize the land and to erect buildings thereon during his or their occupancy (subject to the provisions of subsections 13 to 17 as to compensation in respect of such buildings).

(7) After the land is vested in the corporation, it shall for all purposes of assessment and taxation, whether under such by-law or otherwise, be deemed to be a component part of the highway; but, where a building stands partly on land taken for the work and partly on adjoining land, it shall be assessed on the assessment roll of the municipality in the same manner as if it stood entirely on such adjoining land.

Assessment
of land
when vested

(8) Where it is shown to the satisfaction of the Municipal Board upon application made by the corporation before the day fixed for entry by the by-law that in view of financial conditions it is desirable that the day fixed for entry by the by-law should be further deferred, the Municipal Board may further defer the time for entry by the corporation on the land until a day not less than one year and not more than three years after the day fixed for entry by the by-law, but so that the total time for which entry is deferred by the provisions of the by-law and the order of the Municipal Board shall not exceed ten years, upon such terms and conditions as the Board considers proper, and upon such order being made the day fixed by the Municipal Board as the day for entry shall thereafter be deemed to be the day fixed in the by-law for entry.

Application
by corpo-
ration to
Municipal
Board to
further
defer entry

(9) At the date named in the by-law for entry, it is the duty of the corporation to enter and proceed with diligence and dispatch to remove all buildings and obstructions from the land taken for the work and to put it in fit and proper condition and make it available for use as a highway.

Corporation
to enter at
date named

(10) The by-law may be passed without the assent of the electors and without regard to *The Local Improvement Act* and shall express the intention of the council as to the corporation's portion of the cost thereunder, and the council may thereafter by a majority vote pass a by-law for undertaking the work as a local improvement and such by-law has the same force and effect as if passed under section 8 of *The Local Improvement Act* and the provisions of that Act apply thereafter to such work *mutatis mutandis* and the owners of the lots liable to be specially assessed thereunder have all the rights and remedies in relation thereto that are given them by such Act so far as they are not inconsistent with the other provisions of this section, but the Municipal Board has no power under section 6 or 8 of such Act, either by making an order or by withholding its approval to prevent the due carrying out of the work.

Subsequent
by-law for
undertaking
work as a
local im-
provement
R.S.O. 1970,
c. 255

Compensation,
when payable

(11) Except as may be otherwise ordered by the Municipal Board under subsections 16 and 17, compensation payable under this section does not become payable until the day fixed in the by-law for entry.

Limitations
as to compensation

(12) The compensation shall be limited to,

- (a) the market value of the land itself exclusive of and without regard to any buildings or improvements thereon;
- (b) the value of the buildings and improvements;
- (c) damages occasioned by disturbance to any business established previous to the passing of the by-law to which the general principles of compensation apply;
- (d) damages to land, buildings and improvements injuriously affected by the exercise of any of the powers conferred by this section.

Interpretation

(13) In subsections 14 and 15, "land" means the land itself exclusive of and without regard to any buildings or improvements thereon.

Fixing compensation
for land apart from
buildings

(14) Notwithstanding that entry is deferred, the corporation or the owner may proceed at once after the passing of the by-law to determine or have determined the compensation, if any, payable hereunder in respect of any land.

Value

(15) The value of the land shall be fixed as of the date of the registration of the draft plan or, if no plan is registered, as of the date of the passing of the by-law.

Fixing compensation
for buildings

(16) Compensation shall be allowed in respect of buildings and improvements as they may exist at the date fixed for entry.

As to buildings
erected after
passing of
by-law

(17) In respect to buildings or improvements erected or made after the date of the registration of the draft plan of the work or, if no plan is registered, after the date of the passing of the by-law, the compensation or damages shall be allowed and payable to the extent only of three-quarters of the proper cost of a structure one storey in height of such temporary character, conformable to the existing building by-laws and regulations, as may be reasonable in view of the limited time that is to elapse before entry.

Relief in
special cases

(18) The Municipal Board may make an order at any time granting relief in the following cases: first, where part of an owner's lot is taken for the work and special circumstances exist in the matter of the location, size or shape of the lot that render it inequitable and unjust that the compensation to be allowed for buildings or improvements to be thereafter erected thereon should be limited as provided in subsection 13, 14 and 15 and, secondly, where the work is deferred until a day more than five

years after the date of the passing of the by-law and the whole of the owner's lot is taken or so much of it as to render the remainder, by reason of its size or shape, unfit for building purposes, and the Board in the first case may approve of plans and specifications for appropriate buildings or improvements and fix the basis of compensation to be made therefor, and in the second case it may direct the corporation to enter and make compensation to the owner at an earlier day than the day named in the by-law or to make an immediate or periodical payment to the owner to compensate him for the delay, or it may make such further or other order in either case as may be required to afford due compensation to the owner for the exceptional and peculiar damage he would suffer by reason of the special circumstances affecting his lot.

(19) The council may agree with any bank or person for temporary advances to meet any costs or liabilities incurred under the by-law prior to the completion of the work. R.S.O. 1960, c. 249, s. 338. Temporary advances

340.—(1) The council of a local municipality, as a preliminary step to the widening of a highway or any part thereof, may pass by-laws fixing as a building line the minimum distance from the limit of the highway at which buildings may thereafter be erected or placed, and prohibiting the erection or placing of any building or part thereof closer to the limit of the highway than the distance fixed by the by-law. Prescription of building line

(2) A by-law under subsection 1 shall not come into force until it is approved by the Municipal Board, and when so approved shall not be amended or repealed except with the approval of the Board and on such terms as the Board may determine. Approval of Municipal Board

(3) The council shall, in such manner and to such persons as the Municipal Board may direct, give notice of its application to the Municipal Board for approval of any by-law passed under this section. Notice

(4) The building line fixed by the by-law shall not be distant more than twenty feet from the limit of the highway. Maximum building line

(5) Notwithstanding subsection 4, for the purpose of carrying out an official plan in effect under *The Planning Act* or for the purpose of improving the appearance or utility of the highway, the Municipal Board may authorize the establishment of the building line at a distance greater than twenty feet from the limit of the highway in respect of any part or parts of the highway. Exceptions R.S.O. 1970, c. 349

(6) The distance between the limit of the highway and the building line need not be the same for all parts of the highway or part of a highway in respect of which the by-law is passed. Building line need not be uniform

Exceptions
from opera-
tion of
by-law

(7) A by-law passed under subsection 1 shall not prevent the erection or placing closer to the limit of the highway than the distance fixed in the by-law of any one-storey shop or building front of such temporary character, conformable to the existing by-laws and regulations, as may be reasonable.

Compulsory
acquisition
of land

(8) After the by-law has been passed and approved by the Municipal Board,

- (a) if three-quarters of the frontage measured along one limit of the highway between two streets intersecting the highway is clear of buildings, other than one-storey shop or building fronts, back to the building line; or
- (b) if, at any time after the expiration of ten years from the date of the by-law, a majority of the owners of the land fronting and abutting on one limit of the highway between two streets intersecting the highway so petition in writing,

the municipality shall acquire the land fronting and abutting on that limit of the highway and lying between the two streets intersecting the highway and between the limit of the highway and the building line.

Board may
authorize
delay

(9) Notwithstanding that the conditions set out in clause *a* of subsection 8 have been fulfilled, the Municipal Board may from time to time authorize the municipality to delay its acquisition of the land in question, but no such authority shall be given so as to delay the acquisition beyond ten years from the date of the by-law.

Conveyance
to municip-
ality when
land clear

(10) Where that part of the land of any owner lying between the limit of the highway and the building line is or becomes clear of buildings and the owner offers to convey that part to the municipality, the municipality shall accept the conveyance and is liable for compensation to the owner or the persons entitled thereto to the same extent as if the by-law had been passed to widen the highway.

Limitation
on compen-
sation

(11) In determining the compensation payable by the municipality for the taking of lands for the widening of a portion of a highway in respect of which a building line has been fixed under this section, the municipality is not liable to pay compensation for or in respect of any building erected in contravention of the by-law fixing the building line.

By-law not
to give rise
to claims

(12) Notwithstanding any other provision in this Act or any other Act and except as provided in subsection 10, the municipality is not liable to pay any compensation or damages by reason of having passed a by-law under subsection 1.

(13) Every by-law under this section, when approved by the Municipal Board, shall be registered in the proper registry office and when tendered for registration shall have attached thereto a plan or plans and any supplementary memorandum that may be needed to furnish adequate local description to comply with *The Registry Act*, prepared by an Ontario land surveyor and showing the position of the building line in relation to the limit of the highway. R.S.O. 1960, c. 249, s. 339.

Registration
of by-law;
plan of work

R.S.O. 1970,
c. 409

PART XVI

ARBITRATIONS

341.—(1) Except in cases where there is an official arbitrator, the senior judge of the county or district court shall be sole arbitrator unless he under his hand requests a junior judge or the judge or junior judge of some other county or district to act for him, in which case the judge so designated shall be sole arbitrator.

Senior judge
as sole
arbitrator

(2) The provisions of *The Municipal Arbitrations Act* as to procedure and appeals apply to arbitrations held and awards made by the judge. R.S.O. 1960, c. 249, s. 347.

R.S.O. 1970,
c. 286
to apply

342.—(1) Notwithstanding the other provisions of this Act or any other Act, the council may by by-law designate the Municipal Board as the sole arbitrator, in which case the Municipal Board has and may exercise all the powers and duties of an official arbitrator.

Municipal
Board as
arbitrator

(2) Except as provided in subsection 3, *The Ontario Municipal Board Act* applies to proceedings taken before the Municipal Board under this section.

Procedure,
application
of
R.S.O. 1970,
c. 323

(3) The provisions of *The Municipal Arbitrations Act* with respect to appeals apply to awards made by the Municipal Board under this section. R.S.O. 1960, c. 249, s. 348.

Appeals,
application
of
R.S.O. 1970,
c. 286

PART XVII

ACTIONS BY AND AGAINST MUNICIPAL CORPORATIONS

343. Where a duty, obligation or liability is imposed by statute upon any person in favour of a municipal corporation, or the inhabitants, or some of the inhabitants, of a municipality, or where a contract or agreement is entered into that imposes such a duty, obligation or liability, the corporation has the right by action to enforce it and to obtain as complete and as full relief and remedy as could be obtained in an action by the Minister of Justice and Attorney General, as plaintiff, or as plaintiff on the

Right of
action of
municipal
corporation
to enforce
agreements,
etc.

relation of any person interested, or in action by such inhabitants or one or more of them, on his or their own behalf, or on behalf of himself or themselves and of such inhabitants. R.S.O. 1960, c. 249, s. 350, *amended*.

Corporation
to be liable
for acts done
under illegal
by-law

344. An action shall not be brought for anything done under a by-law, order or resolution of a council that is invalid, in whole or in part, until one month after the by-law, order or resolution, or so much of it as is invalid, has been quashed or repealed, and every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order or resolution. R.S.O. 1960, c. 249, s. 351.

PART XVIII

ADMINISTRATION OF JUSTICE

Police office

345. The council of every city and town shall establish and maintain therein a police office. R.S.O. 1960, c. 249, s. 352.

Accommoda-
tion, etc., for
police office

346. The council shall provide all necessary and proper accommodation, fuel, light, stationery and furniture for the police office, and for the officers connected with it. R.S.O. 1960, c. 249, s. 353.

Existing
county and
district
towns
continued

347. Until otherwise provided by law, the existing county and district towns shall continue to be the county and district towns of the counties and districts in which they are respectively situated. R.S.O. 1960, c. 249, s. 354.

Conveyance
of prisoners

348. Where the attendance of a prisoner confined in a correctional institution is required at a hearing or proceeding, the municipality maintaining the police force that delivered the prisoner to the correctional institution is responsible for conveying the prisoner from the correctional institution to the place of the hearing or proceeding and for his return. 1968, c. 76, s. 18, *amended*.

Lock-up
houses

349.—(1) Subject to the approval of the Ontario Police Commission, the council of every local municipality may establish, maintain and regulate lock-up houses for the detention and imprisonment of persons sentenced to imprisonment therein for not more than ten days, and of persons detained for examination on a charge of having committed any offence, or for transfer to any correctional institution for trial, or in the execution of any sentence, and such persons may be lawfully received and so detained in the lock-up. R.S.O. 1960, c. 249, s. 372 (1); 1966, c. 93, s. 21, *amended*.

(2) Two or more local municipalities may unite in establishing, maintaining and regulating a lock-up house, and such lock-up house shall be deemed to be the lock-up house of each of them. R.S.O. 1960, c. 249, s. 372 (2). Joint lock-up houses

350.—(1) Every lock-up house shall be placed in the charge of a constable appointed for that purpose. Constable in charge

(2) The council may provide for and pay the salary or other remuneration of the constable in charge of a lock-up. R.S.O. 1960, c. 249, s. 373. Salary

351.—(1) The council of a city having a population of not less than 50,000 may, Institutions for reclamation of habitual drunkards

(a) establish, erect and maintain within the city an institution for the reclamation and cure of habitual drunkards; and

(b) provide that the mayor, provincial judge, or any justice of the peace having jurisdiction in the municipality, may send or commit to such institution an habitual drunkard, with or without hard labour.

(2) Sections 54 to 57 of *The Private Sanitaria Act* apply to such institution. R.S.O. 1960, c. 249, s. 376. R.S.O. 1970, c. 363 to apply

PART XIX

POWERS TO PASS BY-LAWS

352. By-laws may be passed by the councils of all municipalities:

Agreements and Contracts

1. For entering into agreement with any other municipality or person for the use of the fire-fighting equipment, or any of it, of the municipality or of such other municipality or person upon such terms and conditions and for such consideration based on cost as may be agreed upon, provided that notwithstanding the provisions of any such agreement no liability accrues to the municipality or person for failing to supply the use of the fire-fighting equipment, or any of it. Fire protection agreements

2. For contracting for a supply of water within the municipality for fire purposes and other public uses, from hydrants or otherwise as may be considered advisable, and for renting hydrants for any number of years not, in the first instance, exceeding ten, and for renewing the contract from time to time for periods not exceeding ten years, as the council may consider proper, or for purchasing or erecting hydrants necessary for any of such purposes. Water supply contracts

Insurance

3. For contracting for insurance against risks that may involve pecuniary loss or liability on the part of the corporation, and for paying premiums therefor.

Agreement with adjoining municipality or the owner of any works as to sewage works

4. For entering into agreement with the corporation of an adjoining municipality or with the owner of any sewage works for the use or interchange of any sewage works for the disposal, interception or purification of sewage, and for making all necessary connections and acquiring land in or adjacent to the municipality for any of such purposes, and for providing for the payment by one municipality or party to the other, annually or otherwise, of such sums as may be agreed upon as compensation for any such interchange or use.

Joint operation of works, systems and services

5. For entering into agreement with one or more municipalities to provide for the joint management and operation of water systems, sewage systems, works for the disposal, interception or purification of sewage, garbage collection and disposal systems, hydro-electric systems, transportation systems, road systems, fire departments, police departments, or other municipal utility, systems or services, and for the establishment of joint boards of management thereof.

Joint acquisition and operation of water system, etc.

6. For entering into agreement with one or more municipalities for the establishment, acquisition, enlargement or extension of water systems, sewage systems and sewage disposal works to be jointly owned by the municipalities that have entered into agreement and operated for their joint use upon such terms as may be agreed upon.

Contracts for street watering or oiling

7. For entering into agreement with a company, board or commission operating a transportation system in the municipality for watering or oiling any of the highways for any number of years, not exceeding five, and for renewing such agreement from time to time for a period not exceeding five years.

Providing for determination of disputes under agreements

8. For providing in any agreement that may be lawfully made with another municipality that any dispute arising out of such agreement may be determined by the Municipal Board as sole arbitrator. R.S.O. 1960, c. 249, s. 377, pars. 1-8.

Air Harbours and Landing Grounds

Establishment, etc., of air harbours or landing grounds

9. For establishing, operating, maintaining and improving or for granting aid to the establishment, operation, maintenance and improvement of air harbours or landing grounds in compliance with the *Air Regulations* (Canada), and for granting aid for aeronautical research work and for the development and general advancement of the science of aeronautics and the use of aircraft, and for entrusting the control and management of any air harbour

or landing ground so established to a commission appointed by the council.

- (a) For the purposes of this paragraph, the council of a local municipality may acquire land in the municipality or in an adjacent or an adjoining municipality or in any adjacent or adjoining territory without municipal organization, or may acquire by lease or otherwise an existing air harbour or landing ground in any municipality or in territory without municipal organization. 1965, c. 77, s. 26 (1); 1966, c. 93, s. 22 (1).

Associations

10. For the corporation becoming a member of any union of Ontario municipalities for furthering the interests of municipalities and paying the fees for such membership and making contributions for the expenses of the union, and paying the expenses of delegates to any meeting of it or upon its business. R.S.O. 1960, c. 249, s. 377, par. 10. Membership in union of municipalities

11. For any of the elected or appointed officers of the corporation becoming members of any municipal union or association or any other association for extending and improving the technical skill of such officers in the discharge of their municipal duties, and for paying the whole or part of the fees for such membership or for tuition of officers or employees enrolled in any course of instruction sponsored by such union or association, and for paying the expenses of such officers attending any meeting of such union or association or upon its business. 1967, c. 55, s. 15 (1). Officers becoming members of associations for improving technical skill

12. For paying the whole or part of the fees for tuition of officers or employees of the corporation enrolled in any course of instruction at any university or college if council is of the opinion that such tuition will assist such officers or employees in the discharge of their municipal duties. 1968-69, c. 74, s. 18 (1). Tuition fees for course in university or college

13. For the corporation becoming a member of the Canadian Deep Waterways and Power Association and paying the fees for such membership and for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business. Canadian Deep Waterways and Power Association

14. For making contributions towards the expenses incurred by the Ontario Safety League in carrying out the purposes for which it was organized. Grants to Ontario Safety League

15. For appointing representatives to a Regional Development Association that has been duly constituted for the promotion of the economic development of the general area and for the making of grants to such Association. Regional Development Association

Drainage and Floods

Construction of drains, sewers, sewage disposal works, etc.

16. For constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up drains, sewers or watercourses; for constructing, maintaining, repairing and improving dams; for providing an outlet for a sewer or establishing works or basins for the interception or purification of sewage; for making all necessary connections therewith, and for acquiring land in or adjacent to the municipality for any of such purposes.

- (a) Before passing a by-law under this paragraph, the council may direct that an engineer's report, with or without a survey, be prepared and the cost thereof may be levied against all the rateable property in the municipality or in a defined area thereof that in the opinion of council derives special benefit therefrom.
- (b) The cost of such construction, maintaining, improving, repairing, widening, altering, diverting, stopping up and acquisition may be levied against all rateable property in the municipality, or in a defined area thereof that in the opinion of council derives special benefit therefrom.

Works for prevention of damage by flooding

17. For the purpose of preventing damage to any highway or bridge or to any property within the municipality by floods arising from the overflowing or damming back of a river, stream or creek flowing through or in the neighbourhood of the municipality, for acquiring land in the municipality or in any adjoining or neighbouring municipality, and for constructing such works as may be considered necessary for that purpose, and for deepening, widening, straightening or otherwise improving such river, stream or creek in the land so acquired, or removing from it islands, rocks or other natural obstructions to the free flow of the water. R.S.O. 1960, c. 249, s. 377, pars. 12-16.

Agreements to prevent damage by floods

18. For entering into agreement with Her Majesty in right of Ontario and for entering into agreement with one or more municipalities and Her Majesty in right of Ontario to acquire and hold for and on behalf of Her Majesty in right of Ontario any lands and premises in the municipality or in any other municipality for the purpose of preventing damage by floods and for doing all such things as may be considered necessary for that purpose.

- (a) Such lands and premises shall be used and disposed of as directed by the Lieutenant Governor in Council.
- (b) For the purposes of *The Assessment Act*, such lands and premises shall be deemed a public park. R.S.O. 1960, c. 249, s. 377, par. 17; 1968-69, c. 74, s. 18 (2).

R.S.O. 1970, c. 32

Obstruction of drains

19. For prohibiting the obstruction of any drain or watercourse and for requiring the person causing the obstruction to remove it.

20. For permitting and regulating the size and mode of construction of culverts and bridges that cross any drain or water-course situated on a highway under the jurisdiction of the municipality. 1968, c. 76, s. 20 (1).

Construction of culverts, etc., crossing drains

Exhibitions, etc.

21. For acquiring land within or without the municipality as a place for holding agricultural, horticultural or industrial exhibitions and for erecting and maintaining buildings thereon for that purpose and for the management of the same.

Acquiring land for agricultural exhibitions, etc.

22. For leasing for any period, not exceeding three years from the making of the lease, any part of the land acquired under paragraph 21, that is not immediately required for the purposes for which it was acquired.

Power to lease

General

23. For taking a census of the inhabitants. R.S.O. 1960, c. 249, s. 377, pars. 18-20.

Census

24. For providing for the use by any person of any of the mechanical equipment of the municipality and for fixing the terms, conditions and rent charges therefor.

Rental of equipment

25. For submitting to the vote of the electors any municipal question not specifically authorized by law to be submitted.

Submission of questions of general policy to electors

- (a) A question as to securing a supply of electrical power or energy from The Hydro-Electric Power Commission of Ontario shall be submitted to the electors qualified to vote on money by-laws.

26. For regulating and governing the business of dry cleaning, dry dyeing, cleaning and pressing and spotting or stain removing; for licensing any person using any land in the municipality for the purposes of any such business including land used for the purpose of receiving articles or goods to be subjected to any such process and for the distribution of articles or goods that have been subjected to any such process; for authorizing the architect or other person named in the by-laws to allow such variation from the standard requirements in the case of any existing business as he may approve; for establishing a maximum and minimum tariff of charges to be made by any person engaging in any such business and for revoking any such licence.

Licensing, etc., dry cleaners, etc.

- (a) Where the council of a town, village or township has passed a by-law under this section, the by-law of the county is not in force in the town, village or township while the by-law of the town, village or township remains in force.

Grants, etc.

Grants to
members of
armed forces

27. With the assent of the electors qualified to vote on money by-laws, for making grants to persons who served in the armed forces of Her Majesty or Her Majesty's allies during any war.

Aid to
widows, etc.

28. With the assent of the electors qualified to vote on money by-laws, for granting aid to any fund established for the purpose of providing allowances or other assistance to the dependants of persons who died while serving in the armed forces of Her Majesty or Her Majesty's allies during any war and who immediately before entering such service resided in the municipality for at least six months.

Public bath-
ing houses

29. For establishing and maintaining or for granting money to aid in the construction of public bathing houses.

Aid to
charities

30. For granting aid to any charitable institution or out-of-door relief to the resident poor. R.S.O. 1960, c. 249, s. 377, pars. 22-28.

Aid for
retarded
persons

31. For granting aid to any association duly constituted for the promotion of the welfare and education of retarded persons within the municipality. R.S.O. 1960, c. 249, s. 377, par. 29; 1968, c. 76, s. 20 (2).

Community
programs
R.S.O. 1970,
c. 111

32. For carrying on any community or joint community program of recreation within the meaning of the regulations under *The Department of Education Act* and for expending money or for granting money in aid for such purposes.

Aid to fat
or live stock
shows

33. For granting or lending money or granting land in aid of any association for the holding of a fat stock or live stock show or exhibition or any exhibition for the promotion or improvement of farming in any of its branches or departments.

Grants to
ferries

34. For making an annual grant towards the maintenance and operation of ferry boats or other appliances used at any ferry over a stream or other water separating a part of the municipality from another part of it, or separating it from another municipality in Ontario.

Fox
bounties

35. For giving bounties for the destruction of foxes, provided that a local municipality shall not give any such bounties where the county in which it is situate has a by-law in force under this paragraph.

Aid for con-
struction of
harbours,
wharves, etc.

36. For granting aid for the construction of harbours, wharves, docks, slips and beacons on any river, lake or navigable water passing in, through or forming any part of the boundary of the county, on such terms and conditions as to security and otherwise as may be considered expedient. R.S.O. 1960, c. 249, s. 377, pars. 30-34.

37. For granting aid for the erection, establishment, maintenance or equipment of public hospitals including municipal hospitals, public sanatoria or municipal isolation hospitals and nurses' residences in connection therewith, within or outside the municipality, and may issue debentures therefor.

Aid to
hospitals

- (a) Granting aid for the purposes of this paragraph shall be deemed to include and to have always included granting money or land in aid. R.S.O. 1960, c. 249, s. 377, par. 35.
- (b) The council of a county may provide for the assumption in whole or in part of the outstanding debenture liability or other obligation of any local municipality within the county incurred by any such local municipality for any of the purposes mentioned in this paragraph, but no by-law passed under this clause shall be repealed or amended without the approval of the Department. 1960-61, c. 59, s. 14 (1).

38. For aiding in maintaining any indigent inhabitant, or person found in the municipality, at a home for the aged, hospital or institution for the mentally ill, deaf and dumb or blind, or other public institution of a like character.

Aiding
indigent
persons

- (a) Where money is advanced by way of charity or relief to or expended for the benefit of a person who, although in destitute circumstances, is the owner of or interested in land the retention of which is necessary for a dwelling for him, the corporation may take a conveyance of or a security on such land for the amount advanced or expended, and, on the death of such person or the surrender of the land by him to the corporation, the corporation may sell or dispose of the land and apply the proceeds in payment of the amount so advanced or expended, with interest thereon at the rate of 6 per cent per annum, and the costs of the sale and the residue of such proceeds, if any, shall be paid to the executors, administrators or assigns of such person on demand.

39. For granting money or land in aid of any public library established under any Act in the municipality or in an adjacent municipality.

Public
libraries

40. For granting money or land in aid of any art gallery in the municipality or in an adjacent municipality operated on a non-profit basis for the advancement of culture and for the benefit of the public, upon such terms and conditions as the council considers expedient.

Aid to art
galleries

41. For offering and paying on the conviction of the offender a reward to any person who supplies information leading to the apprehension or conviction of any person guilty of any offence whether triable summarily or on indictment.

Offering and
paying
rewards

- Sports 42. For aiding athletic or aquatic sports, and for making grants or gifts to persons in recognition of outstanding achievements in athletic, aquatic or other games or contests.
- Aid to nursing organizations 43. For granting aid to the Victorian Order of Nurses and to any local community nursing registry approved by the Registered Nurses' Association of Ontario.
- Aid to Royal Botanical Gardens 44. For granting aid to the Royal Botanical Gardens. R.S.O. 1960, c. 249, s. 377, pars. 36-42.
- Aid to arts 45. For making grants in aid of the arts of the theatre, literature, music, painting, sculpture, or architecture or the graphic arts, or any other similar creative or interpretative activity. 1966, c. 93, s. 22 (2).
- Aid in respect of common disaster 46. For granting money by way of contribution to a relief fund established in aid of persons who suffer loss, whether in Ontario or elsewhere, as a result of a common disaster. 1970, c. 135, s. 6, *part*.

Harbours, Wharves, etc.

- Making, etc., of wharves, docks, etc. 47. For making, improving and maintaining public wharves, docks and slips, and for preserving shores, bays, harbours, rivers or waters and the banks thereof.
- Regulating harbours 48. For regulating harbours.
- Injuring, filling up, etc., of harbours, wharves 49. For prohibiting the injuring, fouling, filling up or encumbering of a public wharf, dock, slip, drain, sewer, water or suction pipe, shore, bay, harbour, river or water.
- Beacons 50. For erecting and maintaining beacons. R.S.O. 1960, c. 249, s. 377, pars. 43-46.
- Erecting and regulating use of docks, etc. 51. For erecting, maintaining, operating and renting grain elevators, wharves, piers and docks in harbours, and floating elevators, derricks, cranes and other machinery for loading, discharging or repairing vessels, and for regulating the use of such facilities and prohibiting the use of such facilities by boats and other craft for any time in excess of such period or periods of time as may be prescribed in the by-law, and for regulating and requiring the removal of any boat or craft using any of such facilities in excess of such period or periods of time. R.S.O. 1960, c. 249, s. 377, par. 47; 1961-62, c. 86, s. 41. (2).
- Vessels, etc. 52. For regulating vessels, crafts and rafts arriving in a harbour, and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order and to pay a harbour master.

53. For requiring the owner or occupant of the land, in connection with which the same exist, to remove door-steps, porches, railings or other erections or obstructions projecting into or over any public wharf, dock, slip, shore, bay, harbour, river or water.

Removal of door-steps, railings, projecting over wharf, dock, etc.

54. For requiring and regulating the removal from any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water, of all sunken, grounded or wrecked vessels, barges, crafts, cribs, rafts, logs or other obstructions or encumbrances, by the owner, charterer or person in charge, or any other person who ought to remove the same.

Removal of sunken vessels, etc., from harbours, etc.

Highways and Bridges

55. For regulating the driving of horses or cattle and the riding of horses on highways and bridges.

Regulating driving on roads and bridges

56. For prohibiting racing, immoderate or dangerous driving or riding on highways or bridges.

Prohibiting racing on highways

57. Notwithstanding any other Act, for laying or maintaining, or for authorizing any person to lay, use or maintain, pipes or conduits for transmitting gasoline, petroleum or petroleum products, anti-freeze, brine or other similar products along, under, in or upon highways or land owned by the municipality; and for making such annual or other charge for the privilege conferred as the council considers reasonable; and for entering into agreements with persons for the use by them of such pipes or conduits on such terms and conditions as may be agreed upon.

Laying of pipes for petroleum, etc.

- (a) Such annual or other charge and any expense incurred by the corporation in restoring the highway to its former condition shall be payable and payment may be enforced in like manner as taxes.

58. For prohibiting carriages, wagons, bicycles, sleighs and other vehicles and conveyances of every description, and whatever the motive power, or any particular kind or class of such vehicles or conveyances being upon, or being used, drawn, hauled or propelled along or upon, any sidewalk, pathway or footpath, used by or set apart for the use of pedestrians and forming part of any highway or bridge, boulevard or other means of public communication, or being in or upon any highway, boulevard, park, park-lot, garden or other place set apart for ornament or embellishment or for public recreation. R.S.O. 1960, c. 249, s. 377, pars. 48-54.

Prohibiting vehicles on sidewalks, etc.

- (a) Clause *a* of paragraph 107 of subsection 1 of section 354 applies to penalties provided by a by-law passed under this paragraph.

- (b) The driver of a motor vehicle, not being the owner, is liable to any penalty provided under a by-law passed

under this paragraph, and the owner of the motor vehicle is also liable to such a penalty, unless, at the time the offence was committed, the motor vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent. 1964, c. 68, s. 9 (1).

Benches on highways

59. For placing or permitting any person to place benches for the use of the public on the untravelled portion of any highway under its jurisdiction.

Temporary closing of highway for repairs, etc.

60. For closing temporarily any highway or portion of a highway under the jurisdiction of the municipality for any period during the construction, repairing or improvement of such highway or portion thereof.

- (a) Where a highway or portion thereof is closed by by-law under this paragraph, the municipality shall provide and keep in repair a reasonable temporary alternative route for traffic and for all property owners who cannot obtain access to their property by reason of such closing.
- (b) While a highway or portion thereof is so closed to traffic, there shall be erected at each end of such highway or portion thereof, and where an alternative route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously from sunset until sunrise and at such points there shall be erected a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.
- (c) Every person who uses a highway or portion of a highway so closed to traffic does so at his own risk and the municipality having jurisdiction over the highway is not liable for any damage sustained by a person using the highway or portion thereof so closed to traffic.
- (d) Every person who without lawful authority uses a highway or portion thereof so closed to traffic while it is protected in accordance with this paragraph, or who removes or defaces any barricade, device, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on summary conviction is liable to a penalty of not more than \$50 and is also liable to the municipality having jurisdiction for any damage or injury occasioned by such wrongful use, removal or defacement.

Transit system shelters

61. For placing or permitting any person, under such conditions as may be agreed upon, to erect transit system shelters on the untravelled portion of a highway under its jurisdiction. R.S.O. 1960, c. 249, s. 377, pars. 55-57.

62. For permitting any person under such conditions as may be agreed upon to place and maintain boxes for the dispensing of newspapers upon a sidewalk or the untravelled portion of a highway under its jurisdiction. 1964, c. 68, s. 9 (2).

Newspaper
boxes

Municipal Employees

63. For appointing such officers and servants as may be necessary for the purposes of the corporation, or for carrying into effect the provisions of any Act of the Legislature or by-law of the council, and for fixing their remuneration and prescribing their duties, and the security to be given for the performance of them. R.S.O. 1960, c. 249, s. 377, par. 58.

Appointing
certain
officers

64. Subject to such limitations and restrictions as the Lieutenant Governor in Council may prescribe by regulations, for providing pensions for employees or any class thereof and their widows and children.

Pensions

(a) In this paragraph,

Interpre-
tation

(i) "employee" means any salaried officer, clerk, workman, servant or other person in the employ of the municipality or of a local board and includes any person or class of person designated as an employee by the Minister,

(ii) "local board" includes any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police and any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or portions thereof but does not include a hospital established under any general or special Act and operated by a municipal corporation.

(b) No by-law passed under this paragraph shall become operative until approved by the Department nor shall any by-law passed under this paragraph and approved by the Department be amended or repealed without the approval of the Department.

Approval by
Department

(c) Payments made under this paragraph or under *The Ontario Municipal Employees Retirement System Act* with respect to past service may be on a deferred basis or provided by the issue of debentures and raised in a subsequent year or years and payments with respect to past service and future service shall be deemed to be current expenditures.

Payments to
be deemed
current
expenditures
R.S.O. 1970,
c. 324

Payments to be deducted from salary, etc.

- (d) The municipality or local board shall deduct by instalments from the salary, wages or other remuneration of each employee to whom the by-law is applicable the amount that such employee is required to pay in accordance with the provisions of the plan that provides a pension for such employee.

Payments by local board to municipality

- (e) Where any employee of a local board is a member of a pension plan provided by a municipality, the local board shall pay to the treasurer of the municipality the payments and deductions made for past and future service of such employee.

Municipalities may agree to provide pensions

- (f) Any two or more municipalities may provide by agreement for pensions for employees or any class thereof, and in such case the provisions of this paragraph apply *mutatis mutandis* and it shall be agreed that one of the parties shall be deemed to be the municipality and the other parties shall be deemed to be local boards within the meaning of this paragraph.

Local boards may provide pensions

- (g) Any local board may provide pensions for employees or any class thereof and the provisions of this paragraph apply *mutatis mutandis* thereto. R.S.O. 1960, c. 249, s. 377, par. 59; 1961-62, c. 86, s. 41 (3, 4); 1962-63, c. 87, s. 15 (3).

Sick leave credit gratuities

65. For establishing a plan of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee is entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of the amount of one-half year's earnings at the rate received by him immediately prior to termination of employment.

Interpretation

- (a) "Employee" means an employee as defined in paragraph 64.

Allowing of credits on transfer of employment

- (b) A by-law passed under this paragraph may provide, upon such terms and conditions as may be prescribed, for placing to the credit of an employee formerly employed by another municipality or local board which had established a sick leave credit plan under this or any other general or special Act the whole or any part of the sick leave credits standing to the credit of the employee in the plan of the municipality or local board formerly employing the employee.

Local boards

- (c) Any local board, except a school board, may establish a plan of sick leave credit gratuities for employees or any class thereof, and the provisions of this paragraph apply *mutatis mutandis* thereto. R.S.O. 1960, c. 249, s. 377, par. 60; 1967, c. 55, s. 15 (2, 3).

66. Subject to *The Health Services Insurance Act*, for providing by contract either with an insurer licensed under *The Insurance Act* or with an association registered under *The Prepaid Hospital and Medical Services Act*, Insurance, hospitalization, etc. R.S.O. 1970, cc. 200, 224, 360

- i. group life insurance for employees or any class thereof,
- ii. group accident insurance or group sickness insurance for employees or any class thereof and their wives and children, and
- iii. hospital, medical, surgical, nursing or dental services or payment therefor for employees or any class thereof and their wives or husbands and children,

and for paying the whole or part of the cost thereof.

- (a) In this paragraph, "employee" means an employee as defined in paragraph 64.
- (b) Any local board may provide insurance and hospital, medical, surgical, nursing or dental services and payment therefor in the same manner and for the same classes of persons as the council of a municipality, and the provisions of this paragraph apply *mutatis mutandis* thereto. 1968-69, c. 74, s. 18 (3).

67. For paying the whole or part of the cost to employees of the plan of hospital care insurance provided for under *The Hospital Services Commission Act* or of health services insurance under *The Health Services Insurance Act*. Contributions towards plans under R.S.O. 1970, cc. 209, 200

- (a) In this paragraph, "employee" means an employee as defined in paragraph 64.
- (b) Any local board may contribute toward the cost to employees of the plan of hospital care insurance provided for under *The Hospital Services Commission Act* or of health services insurance under *The Health Services Insurance Act* and the provisions of this paragraph apply *mutatis mutandis* thereto. 1968-69, c. 74, s. 18 (4).

Parks, Parking Lots, etc.

68. For acquiring land for and establishing and laying out public parks, squares, avenues, boulevards and drives in the municipality or in any adjoining local municipality and, in respect of lands acquired for any of such purposes that are not under the general management, regulation and control of a board of park management, for exercising all or any of the powers that are conferred on boards of park management by *The Public Parks Act*. Acquiring land for parks, etc. R.S.O. 1970, c. 384

- (a) A corporation that expropriates land in another municipality under the powers conferred by this paragraph

shall put the land in an efficient state to be used and open it to the general public for the purpose for which it was acquired within a reasonable time after such expropriation, and shall maintain and keep the land in an efficient state of repair and shall provide police protection therefor.

- (b) Where land is acquired under this paragraph, the cost of acquisition and maintenance thereof or any part thereof may be levied against a defined area in the municipality that in the opinion of the council derives special benefit therefrom.
- (c) Where land is acquired under this paragraph for park purposes and there is no board of park management, the council may appoint not less than three and not more than seven resident ratepayers to act on its behalf as a board of management for any undertaking under this paragraph and, where the board is composed of five or more persons, at least two shall be members of the council. R.S.O. 1960, c. 249, s. 377, par. 63; 1965, c. 77, s. 26 (2).

Accepting
land
dedicated

69. For accepting and taking charge of land, within or outside the municipality, dedicated as a public park for the use of the inhabitants of the municipality.

Joint
acquisition
and main-
tenance of
public parks

70. For entering into agreement with one or more municipalities for the purpose of,

- i. acquiring land for and establishing and laying out a public park within the municipality or within any other municipality; and
- ii. maintaining or operating a public park within the municipality or within any other municipality.

Grants re
public parks
outside
municipality

71. For granting aid to another municipality or to a board of park management for the maintenance or operation of a public park outside the municipality. R.S.O. 1960, c. 249, s. 377, pars. 64-66.

Municipal
parking lots

72. For acquiring, establishing, laying out and improving land, buildings and structures where vehicles may be parked, and for erecting buildings or structures for or in connection with the parking of vehicles in, on or under any land vested for any purpose in a municipality, and for leasing such land, buildings or structures, and for regulating, supervising and governing the parking of vehicles therein or thereon.

Definition
of vehicle

- (a) A by-law under this paragraph may define vehicle for the purposes of the by-law.

Application
of s. 460,
par. 8

- (b) Land acquired or established for the parking of vehicles under this paragraph and buildings and structures

acquired or erected under this paragraph shall be deemed to be a highway for the purposes of paragraph 8 of section 460 and the said paragraph 8 applies to such land, buildings and structures.

- (c) A by-law under this paragraph may set aside and designate on any land vested for any purpose in a municipality entrances and exits to or from any underground parking facilities for the use of persons or vehicles, provided no such entrances or exits shall be set aside on a connecting link or extension of the King's Highway without the approval of the Department of Highways. Entrances and exits from underground parking facilities
- (d) A by-law under this paragraph may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking provisions of the by-law have been contravened and if payment is not made in accordance with such procedure section 466 applies. Procedure for voluntary payment of penalties out of court
- (e) Where a municipality established a parking lot or lots or erects buildings or structures therein, thereon or thereunder for such purposes or constructs underground parking facilities in the municipality at the expense of all the ratepayers of the municipality, the municipality shall establish a reserve fund and deposit therein the net revenue derived from the operation of all parking facilities operated by or on behalf of the municipality or leased by or on behalf of the municipality for parking purposes, including parking meters on highways. Reserve fund
- (f) Such reserve fund shall be applied, Idem
- (i) firstly, for the payment of interest and principal falling due in each year in respect of any debentures issued for the purposes of this paragraph, and
 - (ii) secondly, for the acquisition, establishment, laying out or improvement of additional parking lots or facilities, and
 - (iii) thirdly, for such other purposes as the Department may approve.
- (g) (i) A by-law passed under the authority of this paragraph may provide, with the approval of the Municipal Board, that the capital cost thereof, or any part thereof, the annual rental payable under a lease or any operating deficit in the previous year shall be levied against the lands in a defined area in Levy of parking lot cost against defined area

the municipality that in the opinion of the council derive special benefit therefrom, and in that case the by-law shall have appended thereto a schedule establishing the portion of the cost that shall be levied against each parcel of land in the defined area.

- (ii) The entire cost chargeable to lands in the defined area shall be equitably apportioned among all the parcels in accordance with the benefits accruing to a parcel from the establishment of the parking lot or in the proportion that the assessment of each parcel bears to the total assessment of the parcels in the defined area.
- (iii) Where the capital cost or a part thereof is to be levied as provided in subclause i, the council shall give notice of its application to the Municipal Board for approval of the by-law to the assessed owner of each parcel of land in the defined area.
- (iv) The Municipal Board shall not approve the by-law if a petition objecting to the levy of the capital cost against the defined area, signed by at least two-thirds of the assessed owners representing at least one-half of the assessed value of the land in the area, is filed with the Board at or prior to the hearing of the application.
- (v) Where a by-law establishing a parking lot provides for levying the capital cost thereof against land in a defined area, the net revenue derived from the operation of such parking lot shall be used to reduce the special levy to be made against the land in the defined area under subclause iii in the proportion the special levy made against each parcel of land bears to the total special levy, and after the debentures have been retired the net revenue derived from the operation of such parking lot shall be paid into the reserve fund set up under clause e or, if no reserve fund has been set up under clause e, a reserve fund shall be set up for the same purposes and such net revenue paid into the fund and applied in accordance with clause f.
- (h) Where a by-law has been passed under this paragraph, which provides that the capital cost or any part thereof shall be levied against the lands in a defined area under clause g, and the council is of the opinion that lands in any other area or areas have begun or may begin to derive a special benefit therefrom because of the passing, subsequent to the effective date of the by-law imposing the levy, of a by-law or amendment to a

Enlargement
of defined
area against
which cost
may be
levied

by-law under section 35 of *The Planning Act*, the council may, by a further by-law passed with the approval of the Municipal Board, define the area or areas in which lands have begun or may begin to derive such special benefit and reapportion the balance of such costs mentioned in subclause i of clause g and amend the schedule to the first-mentioned by-law so that such costs shall be apportioned against each parcel of land in all the defined areas that derive or that have begun or begin to derive such special benefit. R.S.O. 1960, c. 249, s. 377, par. 67; 1962-63, c. 87, s. 15 (4); 1965, c. 77, s. 26 (3).

R.S.O. 1970,
c. 349

73. For establishing an authority to be known as "The Parking Authority of the of", and may entrust to the parking authority the construction, maintenance, control, operation and management of municipal parking facilities within the municipality.

Independent
parking
authority
authorized

- (a) A parking authority established under this paragraph is a body corporate and shall consist of three members, each of whom shall be a person qualified to be elected as a member of the council of the municipality and shall be appointed by the council on the affirmative vote of at least two-thirds of the members of council present and voting, and the members so appointed shall hold office for three years and until their successors are appointed.
- (b) The by-law establishing a parking authority or a subsequent by-law may provide for a staggered system of appointments, in which case, on the first appointment of members after the passing of the by-law, one member shall be appointed to hold office for one year, one for two years and one for three years, and thereafter all appointments shall be for a period of three years.
- (c) No member of the council is eligible to be appointed a member of the parking authority.
- (d) Where a vacancy in the parking authority occurs from any cause, the council shall appoint immediately a person, qualified as set out in this section, to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.
- (e) Any member is eligible for reappointment on the expiration of his term of office.
- (f) The members may be paid such salary or other remuneration as may be fixed by by-law of the council.
- (g) Upon the passing of the by-law establishing the parking authority, all the powers, rights, authorities and privileges conferred and duties imposed on the municipal corporation by any general or special Act with respect to the construction, maintenance, operation and manage-

Incorporation
and
members

Staggered
system of
appointments

Council
members not
qualified

Vacancies

Reappointment
of
members

Salary of
members

Powers and
duties of
municipality
transferred
to authority

ment of municipal parking facilities shall be exercised by the parking authority, but subject to such limitations as the by-law may provide.

Budget and
expenditures

- (h) The parking authority shall submit to the council its estimates for the current year at the time and in the form prescribed by council and make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to providing the money for the purposes of the parking authority and, when money is so provided by the council, the treasurer of the municipality shall, upon the certificate of the parking authority, pay out such money.

Annual
report

- (i) On or before the 1st day of March in each year, the parking authority shall submit its annual report for the preceding year to council including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.

Audit

- (j) The municipal auditor shall be the auditor of the parking authority and all books, documents, transactions, minutes and accounts of the parking authority shall, at all times, be open to his inspection.

Debentures

- (k) The power, right, authority and privilege of the council to raise money by the issue of debentures or otherwise for the acquisition of lands or construction of buildings shall not be transferred to the parking authority.

Abolition of
authority

- (l) Upon the repeal of the by-law establishing the parking authority, the parking authority ceases to exist and its undertaking, documents, assets and liabilities shall be assumed by the municipality. R.S.O. 1960, c. 249, 377, par. 68; 1962-63, c. 87, s. 15 (5, 6); 1966, c. 93, s. 22 (9).

Special Undertakings

Special
undertakings

74. For acquiring, erecting, altering, maintaining, operating or managing or granting aid for the acquisition, erection, alteration, maintenance, operation or management of monuments, memorial windows, tablets, parks, recreational areas, playgrounds, athletic fields, zoological or other gardens, natural history collections, observatories or works of art, or other places of recreation and amusement, arenas, auditoriums, health or community centres, stadia, museums, including public historical museums and similar buildings, within or outside the municipality that may or may not be in commemoration of the persons or any class thereof who served during any war in the armed forces of Her Majesty or Her Majesty's allies or in the auxiliary or ancillary services of such forces or in the merchant marine or any Corps of (Civilian) Canadian Fire Fighters for service in the United Kingdom.

- (a) The corporation may borrow money for any of the purposes of this paragraph by the issue of debentures and may levy therefor or for any of the purposes of this paragraph on the rateable property in the municipality or in defined areas thereof.
- (b) Any such monument may with the approval of the Municipal Board, on application by the corporation, be erected in any highway not less than sixty-six feet in width and over which the corporation has jurisdiction.
- (c) Subject to the approval of the Department, any such building may be established and equipped as a home or clubhouse for such persons or any class thereof or may be used for such purposes as the council considers proper.
- (d) The councils of two or more municipalities may enter into agreement for carrying out any of the purposes of this paragraph in any one of such municipalities.
- (e) The council may appoint not fewer than three and not more than seven persons who are qualified to be elected as members of the council to act on its behalf as a board of management for any undertaking under this paragraph and, where the board is composed of five or more persons, at least two shall be members of the council.
- (f) Where two or more municipalities have entered into agreement under clause *d*, each member of the board shall be a person who is qualified to be elected as a member of the council of one of such municipalities and, where the board is composed of five or more persons, at least two shall be appointed from among the members of the councils of such municipalities.
- (g) The council may prescribe fees for admittance to or for the use of any undertaking under this paragraph.
- (h) A board of management appointed under this paragraph for an arena or community centre shall have the power to let from year to year or for any time not exceeding ten years the right to sell refreshments within the arena or community centre under such terms and conditions as the board may prescribe. R.S.O. 1960, c. 249, s. 377, par. 69; 1961-62, c. 86, s. 41 (5, 6); 1968, c. 76, s. 20 (3).

75. Without limiting the generality of section 336, and in addition to the powers set out therein, for acquiring by purchase or lease real property for the purpose of leasing such property to a legally qualified medical or dental practitioner on such terms and conditions as the council may determine, and such property may be so leased for residential, clinical or office purposes or a combination thereof. 1970, c. 135, s. 6, *part*.

Power to
acquire real
property for
purpose of
leasing to
doctor or
dentist

Exemption
from
taxation

76. For exempting from taxation, except for local improvement and school purposes, for a period not exceeding ten years, any premises actually used and occupied as a memorial home, clubhouse or athletic grounds by persons who served in the armed forces of Her Majesty or Her Majesty's allies in any war. R.S.O. 1960, c. 249, s. 377, par. 70.

Lodging
houses

77. For licensing, regulating and governing lodging houses and the keepers of lodging houses, and for revoking any such licence.

- (a) In this paragraph, "lodging house" means a nursing home and any house or other building or portion thereof in which persons are harboured, received or lodged for hire, but does not include a hotel, hospital, nursing home, home for the young or the aged or institution if the hotel, hospital, home or institution is licensed, approved or supervised under any other general or special Act.
- (b) A by-law passed under this section may provide for the licensing, regulating and governing of any class or classes of lodging house or lodging-house keepers, and may provide for the issue and revocation of licences for any class or classes of lodging house by the local board of health and for prohibiting the use of premises licensed under the by-law, except for the purposes for which the licence was issued, and may fix the licence fee for any class or classes of lodging house in accordance with a scale for each class or the number of inmates permitted in the lodging house.
- (c) A by-law of a county passed under this paragraph has no force in any local municipality in which a by-law passed by such local municipality is in force in respect of the same class or classes of lodging house. 1965, c. 77, s. 26 (4); 1966, c. 93, s. 22 (11).

Grants for
patriotic
purposes:

353. By-laws may be passed,

- (a) by the councils of counties, cities, separated towns and separated townships, and of local municipalities in unorganized territory,

aid to
patriotic
organiza-
tions

- (i) for granting aid to any patriotic organization that is duly registered under *The War Charities Act, 1939* (Canada),

aid to rifle
associations
and militia

- (ii) for aiding any regularly organized rifle association or any association or corporation having for its object or one of its objects the promotion of military art, science or literature,

bands of
music

- (iii) for aiding the establishment or maintenance of military bands of music;

- (b) by the councils of all municipalities,
- (i) for aiding the establishment or maintenance of local war savings or loan committees, war savings committees
 - (ii) for the establishment and maintenance of emergency measures civil defence organizations, and civil defence
 - (iii) for providing moneys for emergency measures and civil defence, for the purposes of emergency measures civil defence organizations and for the cost of the operation of such organizations, and for other similar work within the municipality. idem R.S.O. 1960, c. 249, s. 378.

354.—(1) By-laws may be passed by the councils of local municipalities:

[NOTE.—*For special provisions relating to the exercise by townships of certain of the following powers, see subsections 2 and 3 of this section.*]

Animals and Birds

1. For regulating the keeping of domestic fowl or pigeons or cattle, goats, swine, horses, rabbits, mink, foxes, reptiles or other animals, or kennels for the breeding or boarding of cats and dogs, within the municipality or defined areas thereof. R.S.O. 1960, c. 249, s. 379 (1), par. 1; 1967, c. 55, s. 16 (1). Regulating the keeping of animals, etc.
2. For restricting the number of domestic fowl or pigeons or cattle, goats, swine, horses, rabbits, mink, foxes, reptiles or other animals that may be kept by any person within the municipality or defined areas thereof. 1965, c. 77, s. 27 (1); 1967, c. 55, s. 16 (2). Restricting number of animals that may be kept
3. For prohibiting the keeping of domestic fowl or cattle, goats, swine, rabbits, mink, foxes, reptiles or other animals, except horses or mules, within the municipality or defined areas thereof. R.S.O. 1960, c. 249, s. 379 (1), par. 2; 1967, c. 55, s. 16 (3). Prohibiting keeping of animals, etc.
4. For providing sufficient yards and enclosures for the safe-keeping of such animals as it may be the duty of the poundkeeper to impound. Providing pounds
5. For prohibiting or regulating within any part of the municipality or within any defined area thereof, or upon any defined highways therein, the running at large or trespassing of animals, other than dogs, and for providing for impounding them and for causing them to be sold, if they are not claimed within a reasonable time or if the damages, fines and expenses are not paid according to law. Animals running at large
6. For appraising the damages to be paid by the owners of animals impounded for trespassing, contrary to law or the by-laws of the municipality. Appraising the damages

Compensation for impounding animals

7. For determining the compensation to be allowed for services rendered in carrying out the provisions of any Act with respect to animals impounded or distrained and detained in the possession of the distrainer.

- (a) Any by-law passed by the council of a town, village or township under paragraphs 4 to 7 applies to any county highway or part thereof situate within such town, village or township.

Television Antennae

Television installers

8. For licensing, regulating and governing persons engaged in the installation, erection, construction, reconstruction, alteration repair of structures used to carry television antennae, and for revoking any such license.

Explosives

Regulating, storing and transportation of explosives

9. For regulating the keeping, storing and transporting of,
- (a) dynamite, dualin, nitro-glycerine or gunpowder;
 - (b) petroleum, gasoline or naphtha;
 - (c) detonators and detonator caps; and
 - (d) other dangerous or combustible, inflammable or explosive substances.

Fees for support of magazines

10. For regulating and providing for the support by fees of magazines belonging to private persons for the storage of the substances mentioned in clause *a* of paragraph 8, and for requiring them to be stored in such magazines.

Erecting and maintaining magazines

11. For erecting and maintaining within or without the limits of the municipality magazines for the storage of the substances mentioned in clause *a* of paragraph 9, and for acquiring the land necessary for that purpose, and for requiring such substances to be stored in such magazines.

Limiting quantity to be kept

12. For limiting the quantity of the substances mentioned in clause *a* of paragraph 9 that may be kept in any place other than such a magazine, and for regulating the manner in which they are to be kept or stored.

Prohibiting manufacture of explosives

13. For prohibiting or regulating the establishment within the municipality of factories or other places for the manufacture or storage of any of the substances mentioned in clause *a* of paragraph 9.

Submission of plans of premises

14. For requiring the submission of plans of the premises including the buildings upon or in which it is proposed that such manufacture or storage shall take place, and the approval of them by the council before the manufacture or storing is commenced.

Height and description of fences around buildings

15. For requiring such buildings to be surrounded by walls or fences and for regulating the height and description of such walls or fences and their distance from such buildings, and also the distance from any other building, at which such manufacture or storage may be carried on.

16. For regulating the carrying on of the business of manufacturing or storing such substances, whether the business has been heretofore or is hereafter established, and prescribing the precautions to be taken for the prevention of fires and accidents from the combustion or explosion of such substances.

Regulating
business of
manufacturing
explosives

17. For granting licences for the carrying on of the business of manufacturing the substances mentioned in paragraph 9 or for storing them in quantities of more than twenty-five pounds, and prescribing the time, not exceeding five years, during which the licences shall remain in force, provided that the licence fee shall not exceed \$25 a month for every month in which such business is carried on.

Licences
for carrying
on business

18. For prohibiting or regulating the keeping or storing of gasoline or benzine, and prescribing the materials of which the vessels containing it shall be composed, and the classes of buildings in which it may be stored or kept for sale, and for making regulations for the prevention of fires and accidents from the combustion or explosion of such substances.

Storing, etc.,
of gasoline,
etc.

Fences

19. For prescribing the height and description of lawful fences.

Height and
kind of
fence

20. For prescribing the height and description of, and the manner of maintaining, keeping up and laying down, fences along highways or parts thereof, and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down any such fence.

Along
highways

21. For determining how the cost of division fences shall be apportioned, and for providing that any amount so apportioned shall be recoverable under *The Summary Convictions Act*, provided that, until a by-law is passed, *The Line Fences Act* applies.

Division
fences,
apportion-
ment of cost
R.S.O. 1970,
cc. 450, 248

22. For requiring proper and sufficient protection against injury to persons or animals by fences constructed wholly or partly of barbed wire or any other barbed material to be provided by the owner of the land, and in towns and cities for prohibiting the erection along the highways of fences made wholly or partly of barbed wire or any other barbed material.

Barbed wire
fences

23. For requiring the owners of land to erect and maintain a water gate where a fence crosses an open drain or watercourse.

Water gates

24. For requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools and for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates.

Fences
around
private
outdoor
swimming
pools

Fire Matters

Fire halls,
fire-fighting
equipment

25. For acquiring land and erecting thereon a fire hall and for purchasing and installing fire engines, apparatus and appliances for fire-fighting and fire protection, and for issuing debentures therefor without the assent of the electors.

Establish-
ing fire
companies,
etc.

26. For appointing fire wardens, fire engineers and fire fighters and for promoting, establishing and regulating fire, hook-and-ladder and property-saving companies.

Providing
against
accidents
by fire

27. For securing against accident by fire the inmates and employees and others in factories, hotels, boarding houses, lodging houses, warehouses, theatres, music halls, opera houses and other buildings used as places of public resort or amusement.

Smoking
in shops

28. For regulating smoking in retail shops in which ten or more persons are employed, or in any class or classes thereof, and for prohibiting smoking in such shops or any class or classes thereof, or in any part or parts thereof.

Prescribing
times for
setting fires
and pre-
cautions

29. For prescribing for the whole or any part of the municipality the times during which fires may be set in the open air, and the precautions to be observed by persons setting out fires.

Discharge of
firearms

30. For prohibiting or regulating the discharge of guns or other firearms, air-guns and spring-guns or any class or type thereof in the municipality or in any defined area or areas thereof. R.S.O. 1960, c. 249, s. 379 (1), pars. 3-29.

Sale of
fireworks

31. For regulating the sale of fireworks or any class or classes thereof and for prohibiting the sale of fireworks or any class or classes thereof on any day or days during the year or to any person under such age as the by-law may prescribe. R.S.O. 1960, c. 249, s. 379 (1), par. 30; 1962-63, c. 87, s. 16 (1); 1970, c. 135, s. 7 (1).

Setting off
fireworks

32. For prohibiting or regulating the setting off of fireworks or any class or classes thereof in the municipality or in any defined area or areas thereof and for requiring a permit for the holding of fireworks displays and prescribing the conditions under which fireworks displays may be held under such permit. R.S.O. 1960, c. 249, s. 379, (1), par. 31; 1970, c. 135, s. 7 (2).

Wooden
buildings

33. For prohibiting the erection of wooden buildings or wooden additions, and of wooden fences, or the removal of any such building or fence from one place to another in defined areas of the municipality.

Fire in
stables, etc.

34. For prohibiting or regulating the use of fire or lights in factories, stables, cabinet makers' shops, carpenters' shops, paint shops, dye and cleaning works, and places where their use may cause or promote fire.

Dangerous
manufac-
tures

35. For prohibiting or regulating the carrying on of manufact-ures or trades that may be considered dangerous in causing or spreading fire.

36. For regulating and enforcing the proper cleaning of chimneys. Chimney cleaning
37. For regulating the mode of removal and safekeeping of ashes. Removal of ashes
38. For requiring the owners and occupants of buildings to have scuttles in the roof, with approaches, or stairs or ladders leading to the roof. Scuttles, ladders, etc., to roof
39. For requiring buildings and yards to be put in a safe condition to guard against fire or other dangerous risk or accident. Guarding buildings against fire
40. For requiring each inhabitant to provide as many fire buckets in such manner and at such time as may be prescribed; and for regulating the inspection of them and their use at fires. Fire buckets
41. For authorizing appointed officers to enter at all reasonable times upon any property in order to ascertain whether the provisions of the by-law are obeyed, and to enforce or carry into effect the by-law. Inspection of premises
42. For suppressing fires, and for pulling down or demolishing buildings, or other erections when considered necessary to prevent the spread of fire. Preventing spreading of fire
43. For regulating the conduct and enforcing the assistance of persons present and for the preservation of property at fires. Enforcing assistance at fires
44. For making such other regulations for preventing fires and the spread of fires as the council considers necessary. R.S.O. 1960, c. 249, s. 379 (1), pars. 32-43. Regulations
45. For prohibiting the installation, use and maintenance of incinerators for the burning of garbage or other refuse in any class or classes of buildings erected after the 1st day of September, 1966. 1966, c. 93, s. 23 (1). Prohibiting incinerators in certain buildings

Food and Fuel

46. For regulating the delivery and exposure for sale upon a highway or in a market or public place of meat, poultry, game, flesh, fish or fruit, or the carcass of any animal. Regulating the delivery or exposure for sale of meat, etc.
47. For appointing inspectors, and for providing for the inspection of meat, poultry, fish and natural products offered for sale for human food, whether on the streets or in public places, or in shops. Inspection of provisions
48. For authorizing the seizing and destroying of tainted and unwholesome articles of food. Seizing tainted food
49. With the approval of the Municipal Board and within the limitations and restrictions and under the conditions prescribed by order of the Board: Power to buy and sell fuel and food
 - i. For buying and storing fuel and such articles of food as may be designated by order of the Board and for selling them to dealers and residents of the municipality.

- ii. For acquiring land, erecting buildings, establishing, conducting and maintaining depots, stores, warehouses and yards and purchasing machinery, plant, appliances and equipment necessary for such purposes.
- iii. For appointing officers, clerks and servants to manage and conduct such businesses.
- iv. For making rules and regulations and doing all such other acts and things as may be necessary for the full and proper carrying out of such powers.
- v. For borrowing from time to time by the issue of debentures payable in not more than ten years from the date of issue the money necessary for such purposes.
 - (a) The by-law need not be assented to by the electors, but requires a vote of two-thirds of all the members of the council.
 - (b) After the by-law has been approved by the Municipal Board, it shall also be approved by the Lieutenant Governor in Council and may then be finally passed by the council. R.S.O. 1960, c. 249, s. 379 (1), pars. 44-47.

General

Industrial
sites

50. On the vote of three-fourths of all the members of the council, for acquiring and expropriating land and selling or leasing the land for the purpose of sites for the establishment and carrying on of industries and of industrial operations and uses incidental thereto.

Application
of receipts
where debt
outstanding

- (a) Where land has been acquired under *The Industrial Sites Act*, being chapter 268 of the Revised Statutes of Ontario, 1937, or under this paragraph, and any debt is outstanding in respect of the acquisition of the land or in respect of any services applied to the land, other than services supplied under *The Local Improvement Act*, all moneys received from the sale or lease of such land shall be used to retire the debt or shall be set aside as a fund to provide for the retirement of the debt unless the Department, upon the request of the council, approves the use of any such moneys for another purpose; and, when the debt is retired or the amount in the fund is sufficient to provide for the complete retirement of the debt, the balance of such moneys on hand and any such moneys received thereafter shall be credited to the general funds of the municipality.

R.S.O. 1970,
c. 255

Use of
land by
municipality
or sale to
local board

- (b) Any land acquired under *The Industrial Sites Act*, being chapter 268 of the Revised Statutes of Ontario, 1937, or under this paragraph may be used by the municipality for the purposes of the municipality or may be sold to any local board, as defined in *The Department of Municipal Affairs Act*, for the purposes of such board.

R.S.O. 1970,
c. 118

- (c) Where it appears to the council that any land acquired under *The Industrial Sites Act*, being chapter 268 of the Revised Statutes of Ontario, 1937, or under this paragraph is no longer required for the purposes for which it was acquired or for the use of the municipality, the council may, with the approval of the Department, sell or dispose of the whole or any part of such lands for any purpose. 1965, c. 77, s. 27 (2).

Disposal
of land
when no
longer
required

51. For providing by means of taxation for the establishment and maintenance of a fund for the support and aid of a civilian band or bands of music and for making annual or other grants from such fund to any civilian band or bands or to the members thereof. R.S.O. 1960, c. 249, s. 379 (1), par. 50; 1970, c. 135, s. 7 (3).

Establishing
funds for
bands

52. For disqualifying from voting an elector whose taxes on land on the day fixed for nomination at the municipal election are overdue and unpaid. R.S.O. 1960, c. 249, s. 379 (1), par. 51.

Disqualify-
ing electors
in arrear
for taxes

53. For authorizing the completion, improvement, alteration, enlargement or extension of any public utility undertaking, or any part or parts thereof, owned by the corporation and controlled and managed by the council or a public utility commission and for issuing debentures therefor.

By-laws
authorizing
undertakings
and borrow-
ing therefor

(a) In this paragraph,

Interpre-
tation

(i) "public utility undertaking" means a water works or water supply system, sewage works, electrical power or energy generating transmission or distribution system, street lighting system, natural or artificial gas works or supply system, and a transportation system, and includes any lands, buildings or equipment required for the administration or operation of any such system,

(ii) "public utility commission" means a commission or board having the control and management of a public utility undertaking.

(b) No such by-law requires the assent of the electors if the by-law authorizing the undertaking has been passed by a vote of three-fourths of all the members of the council.

Assent of
electors not
required

(c) The Municipal Board, upon application for approval with respect to works undertaken under this paragraph, may, in addition to the inquiry required by section 62 of *The Ontario Municipal Board Act*, have due regard to the financial position of the undertaking and to the additional revenue, if any, that might be derived as a result of the proposed work.

Approval of
O.M.B.

R.S.O. 1970,
c. 323

(d) This paragraph applies to any municipality operating any such undertaking under the authority of a special

Application
of paragraph

Act, and any provision in such special Act requiring the assent of the electors does not apply to the borrowing of money for the purposes of this paragraph.

Idem

R.S.O. 1970,
cc. 377, 332

- (e) This paragraph does not apply to a proposed work that the Department of Health has required a municipality to undertake, as provided in *The Public Health Act*, or that the Ontario Water Resources Commission has required a municipality to undertake, as provided in *The Ontario Water Resources Commission Act*.

Defined
areas

- (f) The powers conferred by this paragraph may be exercised in respect of the whole municipality or any defined area thereof, and a special rate for the completion, improvement, alteration, enlargement or extension of any public utility undertaking under this section may be imposed upon all the rateable property in the municipality or in any such defined area.

Land of
certain
school
boards

R.S.O. 1970,
cc. 424, 32

- (g) Land of an elementary school or secondary school as defined in *The Schools Administration Act* is liable to be specially assessed for the completion, improvement, alteration, enlargement or extension of any public utility undertaking under this section, notwithstanding the provisions of *The Assessment Act*. R.S.O. 1960, c. 249, s. 379 (1), par. 52; 1961-62, c. 86, s. 42 (4); 1968, c. 76, s. 21 (1, 2); 1968-69, c. 74, s. 19 (1).

Street
lighting
systems

54. For acquiring, establishing, constructing, maintaining and operating a street lighting system. R.S.O. 1960, c. 249, s. 379 (1), par. 53.

Removal of
snow and ice
from roofs
and side-
walks of
occupied
premises

55. For requiring the owners or occupants of any designated class of building in the municipality or any defined area thereof to clear away and remove snow and ice from the roofs of such buildings and for requiring the owners or occupants of any designated class of building in the municipality or any designated area thereof to clear away and remove snow and ice from the sidewalks on the highways in front of, alongside or at the rear of such buildings and for regulating when and the manner in which the same shall be done. R.S.O. 1960, c. 249, s. 379 (1), par. 54; 1966, c. 93, s. 23 (3).

Removal of
snow and ice
from roofs
and side-
walks of
unoccupied
premises

56. For clearing away and removing snow and ice from the roofs of any designated class of unoccupied buildings in the municipality or any designated area thereof and for clearing away and removing snow and ice from the sidewalks on the highways in front of, alongside or at the rear of any designated class of unoccupied buildings or vacant lands at the expense of the owners and for collecting or recovering the expenses incurred in so doing in the manner provided by section 469.

57. For clearing away and removing snow and ice from the sidewalks on any highway or part of a highway or any class thereof in front of, alongside or at the rear of any occupied or unoccupied building or vacant lot, or any class thereof, at the expense of the owners, and for collecting or recovering the expenses incurred in so doing in any manner including the manner provided by section 469.

Removal of
snow and
ice from
sidewalks

58. For permitting an owner or occupant of any building or the agent or employee of such owner or occupant to enter upon any adjoining land for the purpose of making repairs, alterations or improvements to such building but only to the extent necessary to effect such repairs, alterations or improvements, and every such by-law shall provide that the adjoining land shall be left in the same condition it was in prior to such entry. R.S.O. 1960, c. 249, s. 379 (1), pars. 55-57.

Right to
enter
adjoining
lands

59. For prohibiting sparring exhibitions and boxing matches, where an admission fee is charged, without the written permission of the chief of police in a city or town, or the reeve in townships and villages. R.S.O. 1960, c. 249, s. 379 (1), par. 58, *amended*.

Sparring
exhibitions
and boxing
matches

60. For prohibiting, or for licensing, regulating and governing, the racing of motor vehicles or motorcycles, or one or more defined classes thereof, in the municipality or one or more defined areas thereof; and for prohibiting, or for licensing, regulating and governing, the holding of motor vehicle or motorcycle races, or one or more defined classes thereof, in the municipality or one or more defined areas thereof.

Motor
vehicle and
motorcycle
racing

61. For appointing an Ontario land surveyor as surveyor for the corporation and for appointing one or more engineers.

Corporation
surveyor
and
engineers

(a) An engineer so appointed and his assistants, in the performance of their duties, possess all the powers, rights and privileges that a surveyor possesses under section 6 of *The Surveys Act*.

Powers of
engineer

R.S.O. 1970,
c. 453

62. For requiring persons to destroy all tussock moths and the cocoons thereof on trees or elsewhere upon the premises owned or occupied by them.

Destruction
of tussock
moths

Health, Sanitation and Safety

63. For prohibiting or regulating the bathing or washing of the person in any public water in or near the municipality.

Bathing

64. For requiring the maintenance of adequate and suitable heat for rented or leased dwelling or living accommodation that, as between tenant or lessee and the landlord, is normally heated by or at the expense of the landlord, for defining adequate and suitable heat for such purposes and for providing for the inspection of such dwelling or living accommodation.

Adequate
heat in
rented
accommoda-
tion

Conveniences to be provided by builders

65. For requiring the owners, contractors or master workmen engaged in the erection or construction of buildings or public works to provide for the use of the workmen, employed in such erection or construction, closet accommodation, to be approved of by the medical health officer, in connection with them.

Contagious diseases

66. For providing blank forms for recording and reporting cases of contagious or infectious diseases, for placarding houses wherein such cases exist, and for taking such measures as may be considered necessary for preventing the spread of such diseases.

Dry earth closets

67. For requiring the use within the municipality or a defined area of it of dry earth closets.

Expenses of cleaning closets, etc.

68. For providing that the cleaning and disposing of the contents of cesspools, water closets, earth closets, privies and privy vaults shall be done exclusively by the corporation.

Powers

(a) For such purpose, the corporation, its officers and servants have all the powers of the local board of health and its officers and servants.

Fixed or graded fees

(b) The council may provide for the expense incurred in such work by imposing in the by-law authorizing the work or in a separate by-law a fixed fee or graded fees varying according to the different kind of premises served, the time involved in service and such other matters as the council may consider applicable, and such fees shall be rated and assessed against the lands in respect of which such services are rendered in the collector's roll of the municipality and collected and recovered in like manner as municipal taxes.

Special rate, assessed value or monthly

(c) The council may provide that the collection, removal and disposal by the corporation of the contents of earth closets or other sanitary closets throughout the whole municipality, or in defined areas of it, shall be done at the expense of the owners, householders or occupants of the land therein, and where such service is at the expense of the owner may impose upon such land a special rate according to its assessed value which shall be collected and recovered in like manner as municipal taxes, or may impose upon the owners, householders and occupants of any building on such land a monthly rate in lieu of such special rate which shall be collected and recovered in like manner as municipal taxes.

Filling up, draining, etc., private drains

69. For requiring and regulating the filling up, draining, cleaning, clearing of any grounds, yard and vacant lots and the altering, relaying or repairing of private drains. R.S.O. 1960, c. 249, s. 379 (1), pars. 59-68.

70. For prohibiting the throwing, placing or depositing of refuse or debris on private property or on property of the municipality or any local board thereof without authority from the owner or occupant of such property. 1968, c. 76, s. 21 (3); 1970, c. 135, s. 7 (4).

Prohibiting
littering
of private
or municipal
property

71. For making any other regulations for sewage or drainage that may be considered necessary for sanitary purposes.

Regulations
for sewerage,
etc.

72. For establishing, acquiring, operating and maintaining sewage works, including sewers, pumping plants, treatment works and other like works necessary for a sewer system, and for regulating the operation and maintenance thereof.

Sewage
works

73. For constructing service drains from a sewer to the line of the highway and for charging the owner of the premises for which the service drain is constructed the cost of such construction, which may be collected or recovered in like manner as taxes.

Drain
connections

74. For requiring owners, lessees and occupants of land in the municipality or any defined area of it to close or fill up water closets, privies, privy vaults, wells or cesspools, the continuance of which may, in the opinion of the council or the medical health officer, be dangerous to health. R.S.O. 1960, c. 249, s. 379 (1), pars. 69-72.

Closing and
filling up
cesspools,
etc.

75. For charging a fee for the inspection of plumbing, sewers, septic tanks, cesspools, water closets, earth closets, privies and privy vaults where, under this or any other Act, approval or a certificate of compliance or such inspection is required. R.S.O. 1960, c. 249, s. 379 (1), par. 74.

Plumbing
inspection
fees

76. For establishing and maintaining a system for the collection, removal and disposal of garbage or of garbage and other refuse or of ashes, garbage and other refuse, and for contracting with any person for the collection, removal and disposal by him of ashes, garbage and other refuse upon such terms and conditions as may be considered expedient, and for erecting and maintaining with the approval of the Department of Health such buildings, machinery and plant as may be considered necessary for the purposes of this paragraph.

Collection,
removal and
disposal of
garbage, etc.

- (a) The corporation may borrow money for any of the purposes of this paragraph by the issue of debentures and may levy therefor in respect of any of the purposes of this paragraph on the rateable property in the municipality or in defined areas thereof. R.S.O. 1960, c. 249, s. 379 (1), par. 75; 1968, c. 76, s. 21 (4).

77. For acquiring land in any local municipality or in territory without municipal organization for any of the purposes of paragraph 76.

Acquisition
of land for
garbage
disposal

- (a) No land shall be acquired in a local municipality under this paragraph without the approval of the local municipality, which approval may be granted upon such terms and conditions as may be agreed upon, or failing such approval or agreement, the approval of the Municipal Board, and no land shall be acquired in territory without municipal organization under this paragraph without the approval of the Municipal Board.
- (b) The Municipal Board, before giving its approval under this paragraph, shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the local municipality concerned and to such other persons in such manner as the Municipal Board may direct and the Municipal Board, as a condition to giving any such approval, may by its order impose such restrictions, limitations and conditions respecting the acquisition or use of such land as to the Municipal Board may appear necessary or expedient and the Municipal Board may order the amendment of any official plan or of any by-law passed under section 35 of *The Planning Act* to permit the use of the land for the purposes for which it is to be acquired. 1968, c. 76, s. 21 (5).

R.S.O. 1970,
c. 349

Special rate
for cost

78. For the collection, removal and disposal by the corporation of garbage or of garbage and other refuse or of ashes, garbage and other refuse throughout the whole municipality or in defined areas of it at the expense of the owners and occupants of the land therein, and for imposing upon such land according to its assessed value a special rate to defray the expense of such collection, removal and disposal.

No land
exempt

- (a) Subject to clauses *c* and *d*, no land is exempt from the special rate, notwithstanding anything to the contrary in any general or special Act or in any by-law.

Recovery
of special
rate

- (b) The special rate may be collected or recovered in the manner provided by section 469.

Special
rate on
churches

- (c) In the case of a place of worship, the council may by by-law provide that the special rate shall be imposed upon the land according to its assessed value exclusive of the assessed value of the buildings.

Rate on
all rateable
property

- (d) A special rate to defray the expense of such collection, removal and disposal may be levied on all the rateable property in the municipality or the defined areas. R.S.O. 1960, c. 249, s. 379 (1), par. 77; 1961-62, c. 86, s. 42 (5, 6).

Monthly
rates

79. For charging the owners, householders or occupants of any building in the municipality a monthly rate in lieu of the special rate for such collection, removal and disposal of ashes, garbage or

other refuse and for providing that the monthly rate may be collected or recovered in the manner provided by section 469 and for the exemption of any class of land owners, householders or occupants from the monthly rate. R.S.O. 1960, c. 249, s. 379 (1), par. 78.

80. For regulating and inspecting the construction and erection of scaffolding and other apparatus and appliances used in erecting, repairing, altering or improving buildings, chimneys, or other structures, and for making regulations for the protection and safety of workmen and others employed thereon; and for appointing inspectors of scaffolding. R.S.O. 1960, c. 249, s. 379 (1), par. 79; 1960-61, c. 59, s. 15 (3).

Construction
of
scaffolding,
etc.

81. For regulating and controlling the excavating of trenches and persons doing work in connection therewith and prescribing requirements in respect of the excavating and use of trenches for the protection of persons working therein; and for requiring the submission of plans of trenches and of the shoring and timbering thereof and for charging fees for the inspection and approval of such plans, and for providing for the issue of permits certifying to such approval without which permit no trench may be excavated and for fixing the fees for such permits and for revoking such permits.

Excavating
trenches

82. For constructing and maintaining lavatories, urinals, water closets and like conveniences, where considered requisite, upon the highways or elsewhere, and for supplying them with water, and for defraying the expense thereof and of keeping them in repair and good order.

Maintaining
public con-
veniences

83. For procuring investigations and reports as to water works or water supply systems, electrical power or energy generating, transmission or distribution systems, natural or artificial gas works or supply systems, sewer, sewer systems or sewage works, or transportation systems, and may issue debentures therefor.

Investiga-
tions and
reports as to
utilities

- (a) It is not necessary to procure the assent of the electors to any by-law passed under this paragraph.
- (b) Instead of making a separate issue of debentures to defray the expenses of such investigation and report, the council may provide that such expenses shall be included in the cost of the work and be paid out of the proceeds of any debentures issued therefor. R.S.O. 1960, c. 249, s. 379 (1), pars. 80-82.

84. Where a local municipality is so situate that it is necessary, in order to procure an outlet for a sewer or to connect it with a sewage farm, to extend it into or through an adjacent municipality, for so extending it, or for extending and connecting it with any existing sewer of such adjacent municipality, upon such terms and conditions as may be agreed upon or, in case of failure to agree, as may be determined by arbitration.

Extension
of sewers
into adjoining
municipality

- (a) Where the council of the adjacent municipality objects to allow such extension or connection, the arbitrator shall determine not only the terms and conditions upon which the extension or connection is to be made, but also the location of the sewage farm, filtering plant or artificial means of sewage disposal that is contemplated, and whether the extension or connection should be allowed to be made.

R.S.O. 1970,
c. 136

- (b) Nothing in this paragraph authorizes the making of an open drain or sewer, or affects *The Drainage Act*, or limits any of the powers conferred on townships by that Act. R.S.O. 1960, c. 249, s. 379 (1), par. 83, *amended*.

Slaughter
houses

85. For prohibiting or regulatng and inspecting the erection or continuance of slaughter houses, and for prohibiting the slaughter of animals intended for food, except in slaughter houses designat-ed in the by-law, provided that in towns, villages and townships this paragraph does not apply to the slaughter of animals for the use of the person killing them or of his family.

Trailers and Trailer Camps

Trailers

86. For prohibiting the use, and for prohibiting the owner or lessee of any trailer from permitting the use, of any trailer for the living, sleeping or eating accommodation of persons, within the municipality or one or more defined areas thereof, for more than such number of days, not less than sixty, as the by-law provides, in any period of ten consecutive months.

Interpre-
tation

- (a) In this paragraph, "trailer" means any vehicle so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being used for the living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked-up or that its running gear is removed.

Application
of by-law

- (b) A by-law passed under this paragraph may be made to apply to any trailer whether or not such trailer was used for the living, sleeping or eating accommodation of persons before the by-law was passed.

Penalties

- (c) The by-law may provide for imposing penalties of not less than \$10 and not more than \$50, exclusive of costs, upon every person who contravenes the by-law, and may provide that each day that a person contravenes the by-law shall be deemed to constitute a separate offence.

Use

- (d) For the purposes of this paragraph, a trailer shall be deemed to be in use on every day it is located in the municipality or in the defined area or areas, as the case may be, but this clause does not apply where the trailer

is located in the municipality or the defined area or areas only for the purposes of sale or storage. R.S.O. 1960, c. 249, s. 379 (1), pars. 84, 85.

87. For licensing trailers, as defined in paragraph 86, located in the municipality, except in a trailer camp operated or licensed by the municipality, for thirty days or longer in any year and for prohibiting such trailers being located in the municipality, except in a trailer camp operated or licensed by the municipality, without a licence therefor. Licensing of trailers

- (a) No by-law passed under this paragraph applies to a trailer when located in the municipality only for the purpose of sale or storage. Application of by-law
- (b) Licence fees may be charged for every month or portion of a month that the trailer is located in the municipality and the licence fees, except for the first thirty days, may be made payable in advance, but no licence fee shall be more than \$20 per month. R.S.O. 1960, c. 249, s. 379 (1), par. 86; 1968-69, c. 74, s. 19 (2). Licence fees

88. For acquiring, establishing, maintaining and operating trailer camps or trailer parks and for acquiring land for such purposes and for installing such services for the use of the occupants of the trailer camps or trailer parks as the council considers expedient and for fixing the fees to be paid by the occupants of the trailer camps or trailer parks. Municipal trailer camps

- (a) In this paragraph, "trailer camp" or "trailer park" means land in or upon which any vehicle, so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, is placed, located, kept or maintained, notwithstanding that such vehicle is jacked-up or that its running gear is removed, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein.
- (b) Where a municipal corporation operates a trailer camp or trailer park, the corporation shall pay to the public school board, separate school board or secondary school board, as the case may be, for each child residing in a trailer in the trailer camp or trailer park and attending a school under the jurisdiction of the board such fees monthly as may be prescribed by the board concerned for non-resident pupils, but the fees shall not exceed the average cost per pupil of the maintenance of the school for the next preceding calendar year less legislative grants. R.S.O. 1960, c. 249, s. 379 (1), par. 87.

Public Bus Transportation

Bus
franchises
R.S.O. 1970,
c. 289

89. Subject to *The Municipal Franchises Act*, for entering into agreement with any person for a period not exceeding ten years for granting to such person the exclusive right to maintain and operate buses, for the conveyance of passengers in a defined area of the municipality, over such highways in the area and at such rates for fares and charges and on such other terms and conditions as may be thought proper.

R.S.O. 1970,
c. 392

- (a) The agreement may provide that any deficit in operation shall be met by a special rate levied on all the rateable property in the defined area.
- (b) The defined area shall not include any part of the municipality covered by an agreement to which the corporation is a party respecting the furnishing of transportation facilities for passengers.
- (c) The agreement does not affect a licence granted under *The Public Vehicles Act*.
- (d) The rates for fares and charges may from time to time, but only once in any year, be increased or decreased by the Municipal Board on the application of the corporation in consequence of a deficit or surplus in the operation of the service.
- (e) It is sufficient compliance with subsection 1 of section 3 of *The Municipal Franchises Act* if a by-law passed under this paragraph receives the assent of the municipal electors in the defined area. R.S.O. 1960, c. 249, s. 379 (1), par. 88; 1965, c. 77, s. 27 (3).

Public bus
transporta-
tion systems
R.S.O. 1970,
cc. 392, 202

90. Subject to *The Public Vehicles Act* and *The Highway Traffic Act*, for acquiring, establishing, maintaining and operating a public bus transportation system within the municipality and, subject to the approval of the council of any adjoining municipality, within the limits of such adjoining municipality, which by-laws, without limiting the generality of the foregoing, may provide,

- i. that the right to maintain and operate buses for the conveyance of passengers within the municipality is exclusive as against all other persons, but such right does not affect the right of any public, separate or secondary school board or board of education to provide transportation for pupils,
- ii. for the acquisition, by purchase or otherwise, of the bus transportation facilities and equipment of any person operating buses for the conveyance of passengers within the municipality,
- iii. for the acquisition, by purchase or otherwise, of any real or personal property required for the establishment, operation, maintenance or extension of the system,

- iv. for the transportation and conveyance of passengers throughout Ontario, whether by chartered trips or otherwise,
- v. for fixing transportation fares and tolls and making regulations with respect to the operation and control of the system, and
- vi. for entering into an agreement with any adjoining municipality with respect to the terms upon which public bus transportation shall be furnished by the municipality in such adjoining municipality. 1960-61, c. 59, s. 15 (4), *part*.

Highways and Sidewalks

91. For prohibiting or regulating coasting or tobogganing on the highways. Coasting and tobogganing

92. For prohibiting children from riding on the platforms of cars, or riding behind or getting on wagons, sleighs or other vehicles while in motion, and for preventing accidents arising from such causes. Prohibiting children from riding behind wagons, etc.

93. For allowing any person owning or occupying any building or other erection that by inadvertence has been wholly or partially erected upon any highway to maintain and use such erection thereon and for fixing such annual fee or charge as the council considers reasonable for such owner or occupant to pay for such privilege. Buildings encroaching on highway

- (a) Such fee or charge forms a charge upon the land used in connection therewith and is payable and payment of it may be enforced in like manner as taxes are payable and the payment of them may be enforced, but nothing herein affects or limits the liability of the municipality for all damages sustained by any person by reason of any such erection upon a highway.

94. For permitting the use of a portion of any highway or boulevard by the owner or occupant of land adjoining such highway or boulevard during building operations upon such land for the storage of materials for such building or for the erection of hoardings; for fixing and collecting a fee or charge for such use according to the area occupied and the length of time of such occupation, and for regulating the placing of such materials or hoardings, the restoration of such highway or boulevard to its original condition, the payment of such fee or charge, and the giving of permits for such privilege. Use of highway or boulevard during building operations

95. For permitting window air-conditioners, cornices, eaves, awning containers, awning covers, sills, brackets and other similar projections beyond the main walls of buildings to encroach upon a highway at a height of not less than eight feet above the grade thereof established by the corporation. R.S.O. 1960, c. 249, s. 379 (1), *pars.* 89-93. Projections

Encroachment on highway for refacing

96. For permitting existing buildings to encroach or further encroach upon a highway to such extent as may be necessary to provide for refacing any such building.

- (a) A by-law permitting an encroachment or further encroachment of more than four inches from the limit of the highway does not take effect until it has been approved by the Department. 1962-63, c. 87, s. 16 (4).

Making the boundaries of and naming streets, etc.

97. To provide for surveying, settling and marking the boundary lines of highways and giving names to them or changing their names, and for affixing the names at the corners thereof, on public or private property.

Proceedings for changing names of streets

- (a) A by-law for changing the name of a highway does not have any force or effect unless passed by a vote of at least three-fourths of all the members of the council, or until a copy of it certified under the hand of the clerk and the seal of the corporation has been registered in the registry office of the proper registry division.
- (b) A by-law for changing the name of a highway in a city or town shall state the reason for the change, and shall not be finally passed until it has been approved by a judge of the county or district court of the county or district in which the municipality is situate.
- (c) The judge, on the application of the council, shall appoint a day, hour and place for considering the by-law and for hearing those advocating and opposing the change.
- (d) A copy of the by-law and of the appointment shall be served on the registrar of the registry division in which the municipality is situate at least two weeks before the time appointed, and a notice of the application in such form as the judge may approve shall be published once in *The Ontario Gazette* at least two weeks before the time so appointed, and at least once a week for four successive weeks in such other newspaper or newspapers as the judge may direct.
- (e) If the judge approves of the change, he shall so certify and his certificate shall be registered with the by-law, and the change shall take effect from the date of registration.

Laying of poles, wires, pipes or conduits on street
R.S.O. 1970, c. 289

98. For regulating and, subject to *The Municipal Franchises Act* and on such terms and conditions as the council considers expedient, for authorizing the erection and maintenance of electric light, power, telegraph and telephone poles and wires and poles and wires for the transmission of electricity across or along any highway or public place, or permitting any person supplying electricity for light, heat or power to lay down pipes or conduits

for enclosing wires for the transmission of electricity under any highway or public place, provided that a by-law shall not be passed under this paragraph in violation of any agreement of the corporation.

99. Subject to *The Power Commission Act*, for constructing or laying down pipes or conduits for enclosing wires for the transmission of electricity under, or for erecting towers or poles for the support of wires for such purpose across or along, any highway or public place, and for entering into agreements with electric light or power, telegraph or telephone companies for the use by them of such pipes, conduits or poles, for such consideration and on such terms and conditions as may be agreed upon. R.S.O. 1960, c. 249, s. 379 (1), pars. 95-97.

Laying
pipes or
conduits for
electric
wires
R.S.O. 1970,
c. 354

100. For authorizing any person supplying steam for heat or power or supplying cooling energy to lay down pipes or conduits for transmitting steam or cooling energy under the highways or public squares, on such terms and conditions as the council considers expedient.

Transmit-
ting steam
or cooling
energy
under
highways

- (a) A by-law shall not be passed under the authority of this paragraph in violation of any agreement of the corporation. R.S.O. 1960, c. 249, s. 379 (1), par. 98; 1970, c. 135, s. 7 (5).

101. Notwithstanding the other provisions of this Act or any other general or special Act but subject to *The Power Commission Act* and *The Public Utilities Act*, for authorizing and regulating,

Transmission
poles, wires,
etc.
R.S.O. 1970,
cc. 354, 390

- i. the erection and maintenance upon, across or along any highway or public place of poles, towers, wires, cables, amplifiers and other accessory equipment, and the construction and laying down of pipes, ducts and conduits for enclosing wires, cables, amplifiers and other accessory equipment, for the purpose of transmitting electrical or electric impulses, signals and messages of every nature and kind, including those of alarm and protective systems, radio programs or parts thereof, and television programs or parts thereof, and
- ii. the placing and maintenance of such equipment upon and within any poles, towers, pipes, ducts and conduits then erected, constructed or laid down, with the consent of the owner and the body in which is vested the management and control of such poles, towers, pipes, ducts and conduits.

- (a) For the purposes of this paragraph, "body" means The Hydro-Electric Power Commission of Ontario in respect of its works and a local board, as defined in *The Department of Municipal Affairs Act*, in respect of its works.

R.S.O. 1970,
c. 118

- (b) A by-law passed under this paragraph may be in respect of the whole of the municipality or a defined area or defined areas thereof, and any such area may be enlarged, reduced, dissolved or amalgamated at the discretion of the council and section 15 does not apply.
- (c) Nothing in this paragraph authorizes the granting of an exclusive franchise or the establishment of a monopoly.

Water and
gas pipes
in highways
R.S.O. 1970,
c. 289

102. Subject to *The Municipal Franchises Act*, for authorizing the laying down, maintenance and use of pipes and other necessary works for the transmission of water, gas or sewage on, in, under, along or across any highway under the jurisdiction of the council.

Driving,
etc., upon
sidewalks

103. For prohibiting the leading, riding or driving of horses or cattle upon sidewalks or in other places not proper therefor.

Spitting on
sidewalks,
in public
buildings,
etc.

104. For prohibiting spitting on sidewalks and pavements, and in the passages and stairways of and entrances to public buildings, and in buildings, halls, rooms and places to which the public resort, in street cars and public conveyances and in such other public places as may be designated in the by-law.

Use of
highways
to solicit
business

105. For prohibiting persons from soliciting or importuning, on a highway or in a public place, others to travel in or employ any vessel or vehicle, or to go to any hotel or boarding house or lodging house, or for regulating persons so employed.

- (a) A by-law passed under the authority of this paragraph may be made applicable only to one or more highways or public places named therein or to any defined area.

Telephone
booths

106. For authorizing the erection of public telephone booths upon the highways or lands of the municipality upon such terms and conditions as may be agreed upon; and for making such annual or other charge for the privilege conferred as the council considers reasonable. R.S.O. 1960, c. 249, s. 379 (1), pars. 99-104.

Regulating
traffic
R.S.O. 1970,
c. 202

107. Subject to *The Highway Traffic Act*, for regulating traffic on the highways and for prohibiting heavy traffic as defined in the by-law and the use of traction engines and the driving of cattle, sheep, pigs and other animals during the whole or any part of the day or night in certain highways and public places specified in the by-law, and for prohibiting traffic in any but one direction in highways that, in the opinion of the council, are too narrow for the passing of one vehicle by another or in which, in the opinion of the council, it is desirable that traffic should be limited to one direction.

Expedition
procedures
authorized
for parking,
standing or
stopping
offences

- (a) A by-law under this paragraph may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking, standing or stopping provisions of the by-law have been contra-

vened, and, if payment is not made in accordance with the procedure, subsection 2 of section 466 applies. R.S.O. 1960, c. 249, s. 379 (1), par. 105; 1966, c. 93, s. 23 (5).

108. For prohibiting the driving of a vehicle in a race and the driving of a vehicle at a speed in excess of 15 miles per hour on privately-owned parking lots upon which the public is invited to park vehicles, except privately-owned parking lots where a fee is charged for the privilege of parking vehicles. Racing and speeding on parking lots

- (a) In this paragraph, "vehicle" means a vehicle as defined in *The Highway Traffic Act*. R.S.O. 1970, c. 202
- (b) A by-law passed under this paragraph applies only to parking lots in respect of which the owner has filed with the clerk of the corporation written consent to the application of the by-law to his particular parking lot.
- (c) No such by-law is effective in respect of a parking lot unless there is erected at each entrance thereto a sign clearly indicating the speed limit for vehicles and the prohibition against the racing of vehicles. 1965, c. 77, s. 27 (4).

109. Subject to *The Highway Traffic Act*, for designating any highway or highways having a width of 14 feet or less and for prohibiting the driving of vehicles having greater widths than those prescribed in the by-law on such highway or highways. Limiting width of vehicles on certain highways

- (a) No such by-law is effective in respect of a highway so designated unless there is erected at each entrance thereto a sign clearly indicating the limitation on the width of vehicles permitted on such highway. 1966, c. 93, s. 23 (6).

110. Subject to the approval of the Minister of Transport, to establish all or any part of any street solely or principally as a way for the use of pedestrians and for prohibiting the use thereof by vehicles or any class thereof except to such extent or for such period or periods as may be specified. Pedestrian ways or malls

111. For setting aside and designating in a suitable visible manner, on any highway upon which street cars or buses are operated, any part or parts as a "safety zone" and for prohibiting motor or other vehicles from driving over or upon any such safety zone while any pedestrian is thereon or about to enter thereon. R.S.O. 1960, c. 249, s. 379, (1), pars. 106, 107. Safety zones

112. For prohibiting the parking or leaving of motor vehicles on private property without authority from the owner or occupant of such property or on property of the municipality or any local board thereof where parking by the public is not authorized and providing for the removal and impounding of any vehicle so parked or left at the expense of the owner thereof. Prohibiting unauthorized parking on private or municipal property

R.S.O. 1970,
c. 202

- (a) Clause *a* of paragraph 107 applies to penalties provided by a by-law passed under this paragraph.
- (b) Subsection 13 of section 116 of *The Highway Traffic Act* applies to a by-law passed under this paragraph.
- (c) The driver of a motor vehicle, not being the owner, is liable to any penalty provided under a by-law passed under this paragraph and the owner of the motor vehicle is also liable to such a penalty unless at the time the offence was committed the motor vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent.
- (d) The driver or owner of a motor vehicle parked or left on private property is not liable to a penalty or to have the motor vehicle removed from such property or impounded under a by-law passed under this paragraph except upon the written complaint of the occupant or any adult resident of the property. R.S.O. 1960, c. 249, s. 379 (1), par. 108; 1968, c. 76, s. 21 (6).

Licensing
users of
wheeled
vehicles

113. Requiring all residents in the municipality owning and using any wheeled vehicle or any kind or class thereof other than a motor vehicle and a trailer as defined in *The Highway Traffic Act* to obtain a licence therefor before using it upon any highway of the municipality; limiting the weight or size of loads that may be carried thereon; regulating the issuing of such licences and the collection of fees therefor; fixing an annual fee not exceeding \$1 for such licences; fixing a scale of fees for different vehicles; imposing penalties not exceeding \$5 exclusive of costs upon all persons who contravene any such by-law; and providing that such penalties may be recoverable in the manner provided by this Act.

Nuisances, Signs, etc.

Gas works,
distilleries,
etc.

114. For prohibiting or regulating the erection or continuance of gas works, tanneries or distilleries or other manufactories or trades that, in the opinion of the council, may prove to be or may cause nuisances.

Noxious
manufac-
tures and
trades

115. For regulating manufactures and trades that in the opinion of the council may prove to be or may cause nuisances. R.S.O. 1960, c. 249, s. 379 (1), pars. 109-111.

Control of
land used
for disposal
of refuse

116. For prohibiting or regulating and inspecting the use of any land or structures within the municipality or any defined area or areas thereof for dumping or disposing of garbage, refuse, or domestic or industrial waste of any kind.

- (a) A by-law under this paragraph,
 - (i) may establish a schedule of fees chargeable upon inspection of such regulated land or structures,

- (ii) may require the owners, lessees or occupants of such land or structures, at the expense of the owners, lessees or occupants, to cease using such land or structures for such purposes, or to cover over any garbage, refuse, or domestic or industrial waste in any prescribed manner, whether or not such land or structures were so used before the passing of the by-law,
- (iii) may define industrial or domestic waste.
- (b) A by-law under this paragraph does not apply to the use of any land or structure by a municipality. R.S.O. 1960, c. 249, s. 379 (1), par. 112; 1968, c. 76, s. 21 (7).

117. For prohibiting or regulating and inspecting the use of any land or structures for storing used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts thereof for sale or other disposal. R.S.O. 1960, c. 249, s. 379 (1), par. 113.

Storing
motor
vehicles for
salvage

118. For prohibiting or regulating, within the municipality or within any defined area or areas thereof, the ringing of bells, the blowing of horns, shouting and unusual noises, or noises likely to disturb the inhabitants. 1967, c. 55, s. 16 (4).

Noise

119. For licensing, regulating and governing the owners or operators of public address systems, sound equipment, loud speakers or similar devices when used on a highway, public lands or lands adjacent thereto, or when emitting sound thereto.

P.A.
systems
etc.

120. For prohibiting and abating public nuisances.

Nuisances

121. For prohibiting the hauling of dead horses, offal, night soil or any other offensive matter or thing along any highway during the hours of daylight.

Hauling
dead horses,
etc., through
the streets
in daylight

122. For prohibiting the carrying on or operation of a pit or quarry in any area in which the use of land is restricted to residential or commercial use by a by-law passed, or an official plan adopted, before the 1st day of January, 1959, provided no by-law passed under this paragraph shall come into force until approved by the Municipal Board or shall apply to a pit or quarry made or established before the 1st day of January, 1959, except to prohibit the enlargement or extension of any such pit or quarry beyond the limits of the land owned and used in connection therewith on the 1st day of January, 1959.

Operation
of pits
and
quarries

123. For regulating the operation of pits and quarries within the municipality and for requiring the owners of pits and quarries that are located within 300 feet of a road and that have not been in operation for a period of twelve consecutive months to level and grade the floor and sides thereof and the area within 300 feet of their edge or rim so that they will not be dangerous or unsightly to the public.

Pits and
quarries

Location of
stables,
garages, etc.

124. For regulating the location, erection and use of stables, garages, barns, outhouses and manure pits.

Indecent
placards,
etc.

125. For prohibiting the posting or exhibition of placards, play bills, posters, writing or pictures or the writing of words, or the making of pictures or drawings, which are indecent or may tend to corrupt or demoralize, on any wall or fence or elsewhere on a highway or in a public place. R.S.O. 1960, c. 249, s. 379 (1), pars. 115-121.

Signs

126. For prohibiting or regulating signs and other advertising devices and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway and any by-law passed under this paragraph may provide that a sign or other advertising device that on the day the by-law comes into force does not comply with the by-law, shall be,

(a) made to comply with the by-law; or

(b) removed by the owner thereof or by the owner of the land on which it is situate,

on or before the expiration of three years from the day the by-law comes into force. 1970, c. 135, s. 7 (6).

Attaching
of things
to property
of public
utility

127. For prohibiting or regulating the nailing or otherwise attaching of anything or the causing of anything to be so nailed or otherwise attached to or upon any property managed and controlled by a public utility commission or of a local board as defined in subclause ii of clause a of paragraph 64 of section 352.

Pulling
down of
signs and
notices

128. For prohibiting the pulling down or defacing of signs or other advertising devices and notices lawfully affixed.

Control of
sewage

129. For prohibiting and regulating the discharge of any gaseous, liquid or solid matter into land drainage works, private branch drains and connections to any sewer, sewer system or sewage works for the carrying away of domestic sewage or industrial wastes or both, whether connected to a treatment works or not.

Trades and Businesses

Fixing time
for delivery
of coal

130. For requiring every dealer in coal who takes orders for coal for future delivery, and accepts payment in full or on account of such order, to deliver to the purchaser the coal so ordered within the time or times fixed by the by-law.

Public
garages,
licensing, etc.

131. For licensing and regulating the owners or operators of public garages, and for fixing the fees for such licences, and for revoking such licences, and for imposing penalties for breaches of such by-law and for the collection thereof.

(a) For the purpose of this paragraph, a public garage includes an automobile service station as defined in

clause *a* of paragraph 132, a parking station or a parking lot or a building or place where motor vehicles are hired or kept or used for hire or where such vehicles or gasoline or oils are stored or kept for sale, and a building or place used as a motor vehicle repair shop or for washing or cleaning motor vehicles.

132. For licensing, regulating and governing the owners or keepers of automobile service stations located or erected since the 25th day of June, 1928, within any defined area or areas or on land abutting on any defined highway or part of a highway in which area or areas or on which land the erection or location of garages to be used for hire or gain or gasoline and oil filling stations was on the said date or at any time thereafter prohibited by a by-law, and for fixing a fee not exceeding \$10 for such licence, and for providing that a licence shall not be granted to any person as an owner of a public garage located or erected within any such area or on any such land notwithstanding that prior to the passing of this section any such person may have been granted a licence as the owner of a public garage.

Automobile
service
stations
in restricted
areas

- (a) For the purposes of this paragraph, an automobile service station means a building or place where gasoline, oil, grease, anti-freeze, tires, tubes, tire accessories, electric light bulbs, sparkplugs and batteries for motor vehicles are stored or kept for sale, or where motor vehicles may be oiled, greased, or washed, or have their ignition adjusted, tires inflated or batteries charged, or where only minor or running repairs essential to the actual operation of motor vehicles are executed or performed.
- (b) No person owning or keeping an automobile service station licensed under this paragraph shall use or permit it to be used for the purpose of wrecking, parking, storing or selling motor vehicles, or, except in an enclosed building, for washing motor vehicles, or for vulcanizing tires or tubes or for exhibiting for sale any accessories mentioned in clause *a* except in an enclosed building, or for exhibiting the same for sale in any display window, or for performing therein any repairs to motor vehicles other than those mentioned in clause *a*, or for storing and keeping for sale any article, accessory or merchandise of any kind other than those expressly mentioned in clause *a* hereof, and it is the duty of such owner or keeper to prevent the use of an automobile service station for any such prohibited purpose.
- (c) The owner or keeper of an automobile service station guilty of any infraction of any of the provisions of clause *b* is subject to the penalties set forth in the by-law permitting the location or erection thereof or the licensing of the same as for an infraction of such by-law.

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(d) Nothing in this paragraph shall be deemed to authorize the location or erection of any automobile service station contrary to any by-law in force under section 35 of *The Planning Act* or a predecessor of such section.

(e) A licence may be required under this paragraph in addition to a licence under paragraph 131. R.S.O. 1960, c. 24, s. 379 (1), pars. 123-128.

Limitation
of number
of garages,
etc.

133. For limiting the number of public garages and automobile service stations where gasoline is stored or kept for sale. R.S.O. 1960, c. 249, s. 379 (1), par. 129.

Car washes

134. For licensing, regulating and governing the owners or operators of car washes, and for revoking such licences.

(a) For the purpose of this paragraph, a car wash means a building or place where motor vehicles are washed, cleaned or polished for a fee or charge.

(b) This paragraph does not apply to an owner or operator licensed under a by-law passed under paragraph 131 or 132. 1965, c. 77, s. 27 (5).

Heating and
cooking
equipment

135. For regulating, controlling and inspecting heating and cooking appliances, or any classes thereof, the installation thereof and the storage of fuel for use in connection therewith.

Persons
installing
heating
equipment

136. For licensing, regulating and governing persons engaged in the installation of hot air, hot water and steam heating equipment of any kind.

Adoption of
codes and
standards

137. For the purposes of any by-law passed under paragraph 135 or 136, or paragraph 6 of section 38 of *The Planning Act*, for adopting by reference to the Ontario Regulations as amended from time to time the codes and standards or the parts thereof as adopted and changed by the Ontario Energy Board by regulation under *The Ontario Energy Board Act*.

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cc. 349, 312

Lending
libraries

138. For licensing, regulating and governing lending libraries that are carried on or operated for the purpose of profit or gain.

(a) The fee to be paid for the licence shall not exceed \$2.

(b) Nothing in this paragraph applies to or affects the lending or circulation of books, magazines, periodicals or other printed works by any religious body or incorporated educational institution. R.S.O. 1960, c. 249, s. 379 (1), pars. 130-133.

Licensing
and
regulating
self-service
laundries,
etc.

139. For regulating and governing laundretérias and washing machines, dryers and dry cleaning machines for use by the public, including coin-operated washing machines, dryers and dry cleaning machines, and for licensing, regulating and governing persons carrying on the business of making available to the public the use of any such services or machines, and for revoking such licences. 1962-63, c. 87, s. 16 (5).

Special Provisions re Townships

(2) A by-law passed by the council of a township under paragraph 24 or any of paragraphs 33 to 44 of subsection 1 may be made applicable to the township or one or more defined areas thereof as set out in the by-law. R.S.O. 1960, c. 249, s. 379 (2); 1962-63, c. 87, s. 16 (6). Certain by-laws of townships

(3) A by-law passed by the council of a township under paragraph 82 of subsection 1 may provide that the expenses mentioned in the paragraph shall be defrayed by a special rate upon the rateable property in the whole township or in one or more defined areas thereof as set out in the by-law. R.S.O. 1960, c. 249, s. 379 (3). Idem

355.—(1) In this section and in any by-law passed thereunder, Interpretation

(a) “closed” means not open for the serving of any customer;

(b) “shop” means a building or part of a building, booth, stall or place where goods are exposed or offered for sale by retail, and barbers’ shops, beauty parlours, shoe repair shops, shoe shine shops and hat cleaning and blocking businesses, but does not include a place where the only trade or business carried on is that of a licensed hotel or tavern, victualling house or refreshment house. 1961-62, c. 86, s. 43, *part*.

(2) Where two or more classes of trades are carried on in a shop and at least 70 per cent of the total gross sales of the shop is derived from one trade, such trade is the principal trade carried on in the shop, and the class of such shop shall be determined in relation to such principal trade. Principal trade

(3) Where it is alleged that any person has contravened in any month any provision of a by-law passed under this section, the total gross sales of the shop for the purpose of determining the principal trade, if any, carried on therein is the total dollar volume of gross sales of goods and services made, whether for cash or credit or part cash and part credit, by any person in the whole of the shop in the preceding twelve months, and, if the shop has been in operation for less than twelve months, is the total dollar volume of gross sales of goods and services made, whether for cash or credit or part cash and part credit, by any person in the whole of the shop in the preceding month or months in which the shop was operated. 1965, c. 77, s. 28 (1), *part*. Gross sales

(4) Nothing in this section or in a by-law passed under it renders unlawful the continuance in a shop after the hour appointed for the closing thereof of any customers who were in the shop immediately before that hour or the serving of such customers during their continuance therein. Exception as to customers entering before closing hour

By-law
determining
hours of
closing

(5) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops in the municipality shall be closed and remain closed on each or any day of the week at and during any time or hours between 6 o'clock in the afternoon of any day and 5 o'clock in the forenoon of the next following day.

Closing of
shops for
weekly
half-
holiday

(6) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops in the municipality shall be closed and remain closed on one particular day of the week during any time or hours between 12.30 o'clock in the afternoon and 5 o'clock in the forenoon of the next following day.

Closing of
shops for
weekly
holiday

(7) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops in the municipality shall be closed and remain closed on one particular day of the week during the whole of such day and until 5 o'clock in the forenoon of the next following day. 1961-62, c. 86, s. 43, *part*.

Closing of
shops on
holidays

(8) The council of a city, town or village may by by-law require that all or any class or classes of shops in the municipality shall be closed and remain closed on all or any of the following days:

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1. Any holiday as defined in *The Interpretation Act*.
2. Boxing Day.
3. Any day proclaimed by the head of the council of a local municipality as a civic holiday. 1965, c. 77, s. 28 (1), *part*.

Powers of
township
councils

(9) The council of every township has, with respect to any part of the township designated in the by-law, all the rights and powers conferred by this section on the council of a city, town or village and may pass by-laws that apply only to the part of the township so designated.

Commence-
ment and
publication
of by-laws

(10) A by-law passed under this section takes effect at a date named therein, being not less than one nor more than two weeks after its passing and shall before that date be published in such manner as to the council passing the by-law appears best fitted to ensure the publicity thereof. 1961-62, c. 86, s. 43, *part*.

Closing of
shops in
which
several
trades
carried on

(11) A shop in which trades of two or more classes are carried on shall be closed for the purpose of all such trades during the hours and days during which the shop is by any such by-law required to be closed for the purpose of any one of such trades, unless it is shown by the occupier or other person having control of the opening and closing of such shop that, by reason of the principal trade being carried on in such shop, the shop is one of a class of shops that by the by-law is not required to be closed. 1965, c. 77, s. 28 (2).

(12) A pharmaceutical chemist or druggist is not, nor is an occupier of or person employed in or about a shop in a village or township, liable to any penalty under any such by-law for supplying medicines, drugs or medical appliances after the hour appointed by the by-law for the closing of shops, but nothing in this subsection authorizes a person to keep open shop after that hour.

Exception as to sales by druggists

(13) Nothing in any such by-law renders the occupier of a premises liable to any penalty for supplying an article to a person lodging in such premises, or for supplying an article required for immediate use by reason of an emergency arising from sickness, ailment or death, or for supplying or selling an article to a person for use on or in or about or with respect to a steamboat or sailing vessel that at the time of such supplying or selling is either in or in the immediate neighbourhood of the municipality in which the premises are situate, or for use by or with respect to a person employed or engaged on or being a passenger on or by any such steamboat or sailing vessel, but nothing in this subsection authorizes a person to keep open shop after the hour appointed by such by-law for the closing of shops.

Supplying articles to lodgers, etc.

(14) A by-law passed by the council of a township for the closing of all or any class or classes of shops may, as to any or all of its terms and provisions, differ from any other by-law passed by the same council for the closing of all or any class or classes of shops in any other designated part of the same township.

By-laws containing different provisions for different localities

(15) Where an offence for which the occupier of a shop is liable under any such by-law to a penalty has in fact been committed by some agent or servant of the occupier, such agent or servant is liable to the same penalty as if he were the occupier.

Agent or servant liable to penalty

(16) Where the occupier of a shop is charged with an offence against any such by-law, he is entitled, upon information duly laid by him, to have any other person whom he alleges to be the actual offender brought before a provincial judge at the time appointed for hearing the charge, and, if, after the commission of the offence has been proved, the occupier proves to the satisfaction of the provincial judge that he used due diligence to enforce the execution of the provisions of the by-law and that such other person committed the offence without his knowledge, consent or connivance, such other person may be summarily convicted of such offence and is liable to the same penalty or punishment as if he were the occupier, and the occupier is exempt from any penalty.

Exemption of occupier on conviction of actual offender

(17) A council may amend or repeal any by-law, except a by-law relating to retail gasoline service stations passed on the application of not less than three-quarters in number of the occupiers of such service stations, passed under any predecessor of

Repeal of by-law

this section, whether or not such by-law was required to be passed upon the application of any number of occupiers of shops in the municipality.

Idem

(18) If at any time it is made to appear to the satisfaction of the council that more than one-third in number of the occupiers of retail gasoline service stations to which a by-law passed upon the application of not less than three-quarters in number of the occupiers of such service stations relates are opposed to the continuance of the by-law, the council may repeal it, or may repeal it in so far as it affects such retail gasoline service stations. 1961-62, c. 86, s. 43, *part*.

When daylight saving time in effect

(19) A by-law passed by the council of a municipality under this section may provide that, so long as the time commonly observed in the municipality is one hour in advance of standard time, the times mentioned in this section and in the by-law shall be reckoned in accordance with the time so commonly observed and not standard time. 1964, c. 68, s. 10.

Form of by-law

(20) Any by-law passed under this section may require all classes of shops to close during certain hours or days, or both, and may exempt therefrom any class or classes of shops. 1965, c. 77, s. 28 (3).

Fines

(21) Notwithstanding section 466, a by-law passed under this section may provide for imposing fines of not more than \$5,000, exclusive of costs, on every person who contravenes such by-law.

Recovery
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c. 450

(22) Every such fine is recoverable under *The Summary Convictions Act*, all the provisions of which apply, except that the imprisonment may be for a term of not more than one year for the breach of such a by-law. 1966, c. 93, s. 24.

Retail gasoline outlets

R.S.O. 1970,
c. 221

356. In addition to any matter authorized by section 355, any by-law thereunder applicable to retail gasoline service stations, gasoline pumps and outlets in the retail gasoline service industry as defined in *The Industrial Standards Act* may,

- (a) provide that the by-law shall apply only in the part or parts of the municipality designated in the by-law;
- (b) require that during the whole or any part or parts of the year such retail gasoline service stations, gasoline pumps and outlets be closed and remain closed at and during any time or hours between 6 o'clock in the afternoon of any day and 7 o'clock in the forenoon of the next following day and between 6 o'clock in the afternoon of Saturday and 7 o'clock in the forenoon of the next following Monday; and
- (c) provide for the issuing of permits authorizing the retail gasoline service station, gasoline pump or outlet for which it is issued to be and remain open, notwithstanding

ing the by-law, during the part or parts of the day or days specified in the permit. 1961-62, c. 86, s. 43, *part*.

357.—(1) In this section, “hotel” means a separate building or two or more connected buildings used mainly for the purpose of catering to the needs of the travelling public by the supply of food and also by the furnishing of sleeping accommodation of not less than six bedrooms as distinguished from any other building or connected buildings used mainly for the purpose of supplying food and lodging by the week or otherwise commonly known as “boarding houses” or of furnishing living quarters for families and having a dining-room or restaurant commonly known as “apartment houses” or “private hotels”. Interpretation

(2) For the purposes of the sale of non-intoxicating drinks and beverages, cigars, cigarettes and tobacco and the conducting of an ice-cream parlour, restaurant or cafe, the keeper of a hotel shall not be required, Sale of soft drinks, etc.

(a) to obtain any licence issued by a municipal authority; or

(b) to comply with any by-law relating to early closing. 1961-62, c. 86, s. 43, *part*.

358. By-laws passed under section 355, 356 or 357 do not apply to service centres established on controlled-access highways under agreement with the Minister of Highways. 1965, c. 77, s. 29, *part*. Application of closing by-laws to service centres

359.—(1) With the approval of the Municipal Board, councils of local municipalities may, by by-law, define the class or classes of buildings to be erected or enlarged after the effective date of the by-law that impose or may impose a heavy load on the sewer system or water system, or both, by reason of which expenditures are or may be required to provide additional sanitary or storm sewer or water supply capacity that in the opinion of a council would not otherwise be required, and may impose upon the owners of such buildings a special charge or charges over and above all other rates and charges to pay for all or part of the cost of providing the additional capacity. 1965, c. 77, s. 29, *part*. Special charges to provide additional sewer or water supply capacity

(2) The special charge or charges under any by-law shall refer specifically to sewage works or water works as defined in section 362, or to both, as the case may be. 1966, c. 93, s. 25. Charges to refer to specific works

(3) The proceeds of the charge or charges authorized by any such by-law shall be deemed to be a reserve fund established under section 308. 1965, c. 77, s. 29, *part*. Application of proceeds

(4) The by-law may provide that the charge or charges imposed under it are a lien upon the land on which the building is Charges a lien on land

erected, and may be collected in the same manner and with the same remedies as provided by this Act for the collection of real property taxes. 1965, c. 77, s. 29, *part*; 1968-69, c. 74, s. 20.

When
charges may
be made
payable

(5) Any charge or charges to be imposed under the by-law may be made payable on an application for a building permit or at any time thereafter.

Exemptions

(6) The following are exempt from any charge or charges imposed under the by-law:

1. Every building on land exempt from taxation under any general or special Act.
2. Every building on land in respect of which an agreement has been entered into with the municipality under section 33 of *The Planning Act* or any predecessor thereof.
3. Every building or any land in respect of which a contribution to provide sanitary or storm sewers or water supply facilities has been made within the ten years previous to the application for a building permit, to the extent of the contribution so made.
4. Every residential building having not more than two dwelling units.
5. Every building, other than a residential building, with an inside floor area of not more than 3,000 square feet. 1965, c. 77, s. 29, *part*.

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c. 349

360. By-laws may be passed by the councils of local municipalities:

Water
canals in
subdivisions

1. For accepting a conveyance of lands in a registered plan of subdivision used or intended to be used for or in connection with water canals and, when such lands have been conveyed, for cleaning, dredging and maintaining such canals, and providing and maintaining equipment for the circulation of water in them, and for defining an area and providing that the cost of such cleaning, dredging, maintenance and equipment and maintenance thereof shall be levied on the rateable property in the area, and the by-law may provide that the whole or part of such cost shall be assessed upon the lots abutting on such canals according to the frontage thereof, and, where only part of such cost is assessed on the lots abutting such canals, the balance of the cost shall be assessed and levied on the rateable property in the area.

Regulating
use

2. For regulating and governing the use of water canals and for limiting the speed at which any boat or other vessel may travel in such canals.

3. For permitting the owners or lessees of lots abutting water canals conveyed to the municipality to construct, maintain and use docks or slips in such canals and for making such annual or other charge for the privilege conferred by the by-law as the council considers reasonable, and for providing that, upon the termination of such privilege, the canal shall be restored to its former condition at the expense of the owner or lessee of the land to which the privilege is appurtenant by removing the dock or slip or otherwise as may be required by the by-law.

Docks and
slips

- (a) Such annual or other charge and any expense incurred by the corporation in restoring the water canal to its former condition is payable and payment of it may be enforced in like manner as taxes are payable and payment of them may be enforced.
- (b) The corporation is not liable for damages that may result from the construction, maintenance and use of any such dock or slip. 1966, c. 93, s. 26.

361.—(1) The council of a local municipality may pass by-laws designating an area as an improvement area and may by by-law establish for any such area so designated a Board of Management to which may be entrusted, subject to such limitations as the by-law may provide, the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.

Improve-
ment area
may be
designated
by by-law

(2) Before passing a by-law designating an improvement area, notice of the intention of the council to pass the by-law shall be sent by prepaid mail to every person occupying or using land for the purpose of or in connection with any business in the area who is shown in the last revised assessment roll of the municipality as being assessed for business assessment within the meaning of *The Assessment Act*.

Notice of
intention

R.S.O. 1970,
c. 32

(3) Unless a petition objecting to the passing of the by-law referred to in subsection 2, signed by at least one-third of the persons entitled to notice as set out in subsection 2, representing at least one-third of the assessed value of the lands in the area that is used as the basis for computing business assessment, is received by the clerk within two months next following the latest day of the mailing of any such notices, the council may pass the by-law, but, if such a petition is received by the clerk within such time, the council shall not pass the by-law.

Petition
objecting
to by-law

(4) The sufficiency of the petition described in this section shall be determined by the clerk and his determination shall be evidenced by his certificate and when so evidenced is final and conclusive.

Sufficiency
of petition
determined
by clerk

Effect of
petition
objecting
to by-law

(5) Where the council has proceeded under this section and has been prevented from passing the proposed by-law by reason of a petition objecting thereto having been presented under subsection 3, the council may again proceed under this section in respect of the area to be designated by any such by-law at any time after the expiry of the two years next following the presentation of the petition.

Board of
Management

(6) A Board of Management established under subsection 1 is a body corporate and shall consist of not fewer than three and not more than seven members appointed by council, at least one of whom shall be a member of the council and the remaining members shall be persons qualified to be elected as members of the council assessed for business assessment in respect of land in the area.

Term of
office

(7) Each member shall hold office for a period of one year from the time of appointment, provided he continues to be qualified as provided in subsection 6.

Vacancy

(8) Where a vacancy occurs from any cause, the council shall appoint a person qualified as set out in subsection 6 to be a member, who shall hold office for the remainder of the term for which his predecessor was appointed.

Idem

(9) The members shall hold office until their successors are appointed and are eligible for reappointment on the expiration of their term of office.

Estimates

(10) A Board of Management established under subsection 1 shall submit to the council its estimates for the current year at the time and in the form prescribed by council and may make requisitions upon the council for all sums of money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to rejecting such estimates in whole or in part or providing the money for the purposes of the Board of Management and, when money is so provided by the council the treasurer shall, upon the certificate of the Board of Management, pay out such money to the Board of Management.

Expenditure
of moneys

(11) The Board of Management shall not expend any moneys not included in the estimates approved by the council or in a reserve fund established under section 308.

Indebtedness
not to
extend
beyond
current year

(12) A Board of Management established under subsection 1 shall not incur any indebtedness extending beyond the current year.

Annual
report

(13) On or before the 1st day of March in each year, a Board of Management shall submit its annual report for the preceding year to council, including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.

(14) The municipal auditor shall be the auditor of each such Board of Management and all books, documents, transactions, minutes and accounts of a Board of Management shall, at all times, be open to his inspection. Auditor

(15) Upon the repeal of a by-law establishing a Board of Management, the Board ceases to exist and its undertakings, assets and liabilities shall be assumed by the municipality. Dissolution of Board

(16) The council shall in each year levy a special charge upon persons in the area assessed for business assessment sufficient to provide a sum equal to the sum of money provided for the purposes of the Board of Management for that area, which shall be borne and paid by such persons in the proportion that the assessed value of the real property that is used as the basis for computing the business assessment of each of such persons bears to the assessed value of all the real property in the area used as the basis for computing business assessment. Special charge

(17) Any charge imposed under subsection 16 may be collected in the same manner and with the same remedies as provided by this Act for the collection of taxes upon business assessment. Manner of collection

(18) No by-law designating an improvement area comes into force without the approval of the Municipal Board and as a condition of giving its approval the Municipal Board may by its order impose such restrictions, limitations and conditions with respect to such matter as may appear necessary or expedient. Approval of O.M.B.

(19) A by-law designating an improvement area may be repealed to take effect upon the 31st day of December in the year in which it is passed, and subsections 2, 3 and 18 do not apply to a repealing by-law passed under this subsection. 1968-69, c. 74, s. 21. Repeal of by-law

362.—(1) In this section,

Interpretation

- (a) "benefit" means an immediate benefit or deferred benefit accruing to owners or occupants of land and derived or derivable from the construction of sewage works or water works, and
 - (i) "immediate benefit" means the benefit that accrues and is derived or derivable immediately upon completion of the works, and
 - (ii) "deferred benefit" means the benefit that accrues upon completion of the works but which is not derived or derivable therefrom until a sewer or water main upon which the land will abut is constructed as part of the works;
- (b) "capital cost" means the cost of constructing sewage works or water works, inclusive of all items of cost usually and properly chargeable to capital account;

- (c) "capital improvement" means an addition to or an extension, enlargement, alteration, replacement or other improvement of a work of such nature or character that it is usually and properly accounted for as a capital asset;
- (d) "sewage service rate" means a charge for the operation, repair and maintenance of sewage works and includes a charge for depreciation, deferred maintenance or a reserve fund for any such purpose;
- (e) "sewage works" means any public works for the collection, transmission, treatment or disposal of sewage, or any part of any such works;
- (f) "sewer rate" means a charge for the capital cost of sewage works;
- (g) "water works" means any works for the collection, production, treatment, storage, supply or distribution of water, or any part of any such works;
- (h) "water works rate" means a charge for the capital cost of water works.

Sewer, water
works rate

(2) Subject to the approval of the Municipal Board first being obtained, the council of a local municipality, in authorizing the construction of sewage works or water works, may by by-law provide for imposing upon owners or occupants of land who derive or will or may derive a benefit from the sewage works or water works a sewer rate or a water works rate, as the case may be, sufficient to pay for the whole or such portion or percentage of the capital cost of the works as the by-law may specify, and, with the like approval, such by-law may from time to time be amended or repealed.

Special
assessment
under
R.S.O. 1970,
c. 255

(3) Where a sewer rate or water works rate is imposed under subsection 2, no part of the capital cost of the works shall be specially assessed under *The Local Improvement Act*.

Land in
respect of
which rate
imposed

(4) A by-law passed under subsection 2 shall designate the land for which the owners or occupants are made liable for the sewer rate or water works rate imposed, and, where the land designated does not comprise all land within the municipality, the area thereof shall be defined in the by-law.

Idem

(5) The land designated under subsection 4 may include not only land for which an immediate benefit accrues but also land for which a deferred benefit accrues.

Rate for
deferred
benefit

(6) Where a sewer rate or water works rate is imposed for a deferred benefit, it shall be changed to a rate imposed for immediate benefit as soon as the immediate benefit is derived or derivable.

(7) A sewer rate shall be computed by any or all or any combination of the following methods: Computation of sewer rate

- (a) A foot frontage rate on the lands that receive an immediate benefit from the work.
- (b) A foot frontage rate on the lands that receive a deferred benefit from the work.
- (c) An acreage rate or rates on any or all of the lands designated under subsection 4, which rates may differ as between lands that will receive an immediate benefit and lands that will receive a deferred benefit.
- (d) A mill rate on the assessed value of the lands designated under subsection 4.
- (e) A rate on that portion of the lands designated under subsection 4 that is connected to the sewage works based on the water rates or charges charged or chargeable in respect of such lands.

(8) A water works rate shall be computed by any or all or any combination of the methods referred to in clauses *a* to *d* of subsection 7. Computation of water works rate

(9) The revenue derived in any year from a rate imposed under subsection 2 shall be applied and used towards payment of principal and interest due in that year upon debentures issued for the works for the capital cost of which the rate is imposed, and the council shall reduce the amount of the debenture rate to be levied for such debentures in any year upon the rateable property liable therefor by the amount of revenue estimated to be derived in that year from the rate. 1962-63, c. 87, s. 17, *part*. Revenue from rates

(10) Where in a local municipality there is land that has not or the owners or occupants of which have not been and are not assessable or taxed with respect to an existing sewage works or water works except in the same manner and to the same extent as all other owners or occupants of land within the municipality or within an area established under clause *f* of paragraph 53 of subsection 1 of section 354 have been or are assessable or taxed and a sewer or water main forming part of such existing sewage works or water works is to be constructed by means of which an immediate benefit from the existing works accrues to the owners or occupants of such land, the council may, by by-law passed with the approval of the Municipal Board, provide for imposing upon the owners or occupants so benefited a sewer rate or water works rate sufficient to pay for such portion or percentage of the capital cost of the existing sewage works or water works as the by-law may specify. 1962-63, c. 87, s. 17, *part*; 1964, c. 68, s. 11 (1). Sewer or water works rate for cost of existing works

(11) A rate may be imposed under subsection 10 notwithstanding that the capital cost of the existing works has in whole or in part been paid. Idem

Revenue
from rates
imposed
under
subs. 10

(12) The revenue from the sewer rate or water works rate imposed under subsection 10 if not required for payment of any part of the outstanding capital cost of the existing sewage works or water works shall be applied and used only for future capital improvements of the existing sewage works or water works, as the case may be.

Rate under
subs. 10 in
addition to
rate under
subs. 2

(13) A rate imposed under subsection 10 shall be separate from and in addition to the rate, if any, imposed under subsection 2 upon the same owners or occupants with respect to the works to be constructed to form part of the existing works. 1962-63, c. 87, s. 17, *part*.

Rate
structure

(14) The council of a local municipality for the purposes of subsections 2 and 10 may, by by-law passed with the approval of the Municipal Board,

(a) establish a sewer rate structure or a water works rate structure upon which the sewer rates or water works rates imposed under subsection 2 or 10 shall be based and calculated, and, in establishing the rate structure, the council shall have regard to differentiating between the several classes of works, the kinds of benefits accruing and all other relevant matters to ensure that rates are imposed upon a basis that is equitable and just, and, with the like approval, a by-law establishing the rate structure may from time to time be amended or replaced;

(b) provide for the exemption or partial exemption from a foot frontage rate and for the termination of such exemption or partial exemption upon,

(i) lands at the junction or intersection of streets or highways, or

(ii) lands that are triangular or irregularly shaped, or

(iii) lands, in respect of a sewer rate only, that, because of the nature of the terrain or the elevation of the sewer, do not derive the same benefit as other lands abutting on the sewer, or

(iv) lands having frontages in excess of 100 feet and used for agricultural purposes or residences in connection with such agricultural purposes,

upon a basis that is equitable and just. 1964, c. 68, s. 11 (2).

Commuta-
tion

(15) Where a by-law passed under subsection 14 provides for a frontage rate, the council may also either by general by-law or by a by-law applicable to the particular work prescribe the terms and conditions upon which persons whose lands are liable to a frontage rate may commute such frontage rate for a payment in cash. 1964, c. 68, s. 11 (3).

(16) The council of a local municipality may by by-law provide for imposing upon owners or occupants of land who use sewage works a sewage service rate. Sewage service rate

(17) A sewage service rate may be imposed under subsection 16 notwithstanding that, Idem

- (a) a sewer rate has also been imposed with respect to the capital cost of the same works; and
- (b) the work with respect to which it is imposed was constructed under *The Local Improvement Act* or any other general or special Act. R.S.O. 1970, c. 255

(18) The council of a local municipality for the purposes of subsection 16 may by by-law establish a sewage service rate structure upon which sewage service rates shall be based and calculated and, in establishing the rate structure, the council shall have regard to differentiating between classes of users, nature, volume and frequency of use and all other relevant matters to ensure that sewage service rates are imposed upon a basis that is equitable and just. Sewage service rate structure

(19) The council of a local municipality may by by-law establish systems for, Collection of rates

- (a) fixing times, periods and frequencies at and for which sewer rates or water works rates imposed under subsection 2 or 10 and sewage service rates imposed under subsection 16 shall be payable, and they may be yearly, half-yearly, quarterly or bi-monthly;
- (b) allowing discounts for prompt payment of such rates or for adding penalties for non-payment by due date;
- (c) appointing persons, corporations or agencies to have charge of and the power and responsibility for billing and collecting such rates;
- (d) billing and collecting such rates and for co-ordinating such billing and collecting with the billing and collecting of other kinds of rates or charges imposed by or for the corporation;
- (e) any other relevant matter or thing.

(20) The council of a local municipality may by by-law require any public utilities commission or local board that supplies water to the inhabitants of the municipality to collect such portion of any sewer rate or sewage service rate as is computed by the method referred to in clause e of subsection 7. Idem

(21) A sewer rate or water works rate imposed under subsection 2 or 10 and a sewage service rate imposed under subsection 16 upon any owner or occupant of land is a lien and charge upon the land, and, if the rate or any part thereof remains unpaid after due Rates a charge on land

date, the amount unpaid may be collected by distress upon the goods and chattels of such owner or occupants, or the clerk of the municipality, upon notice to him of the amount due, the person by whom it is due and the land upon which a lien is claimed, shall enter the same upon the collector's roll, and the collector shall proceed to collect it in the same way, as nearly as may be, as municipal taxes are collectable. 1962-63, c. 87, s. 17, *part*.

Liability of
school
boards

(22) The board of an elementary school or secondary school as defined in *The Schools Administration Act* is liable to a sewer rate or a water works rate imposed under subsection 2 or 10 and to a sewage service rate imposed under subsection 16, notwithstanding the provisions of *The Assessment Act*. 1968-69, c. 74, s. 22.

R.S.O. 1970,
cc. 424, 32

363. By-laws may be passed by the councils of urban municipalities:

Inspection
of bathing
and boat
houses

1. For inspecting public bathing houses and boat houses or premises wholly or partly used for boat-house purposes.

Requiring
changes
in structure
of buildings

2. For requiring the owner or occupant of any building to make such changes in its structure and to strengthen its walls, supports and floors as may be required by the architect or other officer named in the by-law when, in the opinion of the architect or such officer, the building is being used for any purpose for which it is structurally unsuited or which renders it dangerous, and requiring a permit from the architect or such other officer for such use after such changes have been made as he may direct, and prohibiting the use of any building that in the opinion of the architect or other officer is dangerous, without his sanction and approval.

Stands for
vehicles

3. For authorizing and assigning stands on the highways and in public places for motor vehicles not kept for hire, and for motor vehicles and other vehicles kept for hire, and regulating the use of the stands, and for authorizing the erection and maintenance of covered stands or booths on the highways and in public places for the protection or shelter of the drivers of such motor vehicles and other vehicles kept for hire; but no such covered stand or booth shall be placed upon the sidewalk without the consent of the owner and occupant of the adjoining land.

Acquiring
land in an-
other munic-
ipality for
drainage
purposes

4. For acquiring, with the consent of the council thereof, land in any other municipality required for preventing such urban municipality or any part of it from being flooded by surface or other water flowing from such other municipality, or for an outlet for such water; and for constructing, maintaining and improving drains, sewers and watercourses in the land so acquired.

Site for
drill-shed
or armoury

5. For acquiring land in the municipality for a drill-shed or armoury for any militia or volunteer corps having its headquarters in the municipality. R.S.O. 1960, c. 249, s. 381, pars. 1-5.

6. For providing medals or rewards for persons who distinguish themselves at fires, and for granting gratuities to the members of the fire brigade who have become incapacitated for service on account of injuries or ill-health caused by accident or exposure at fires, or from old age or inability to perform their duties, and for granting pecuniary aid or other assistance to the widows and children of persons killed by accident while in the discharge of their duties at fires, or who die from injuries received or from illness contracted while in the service of the corporation as fire fighters.

Rewards to fire fighters and persons distinguishing themselves at fires

7. For regulating the use of tickets, checks or coupons by vendors of or dealers in milk, bread or other articles of food.

Milk and bread tickets

8. For prohibiting any person driving or in charge of a motor vehicle, other than a commercial motor vehicle, from allowing such motor vehicle to stand unattended unless it is locked in such a manner as to prevent its operation by any person not authorized by the owner, driver or person in charge.

Unlocked motor vehicles

(a) In this paragraph, "motor vehicle" and "commercial motor vehicle" mean "motor vehicle" and "commercial motor vehicle" as defined in *The Highway Traffic Act*.

R.S.O. 1970, c. 202

(b) Any person who contravenes the provisions of such a by-law is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$10.

9. For numbering the buildings and lots along the highways and for affixing numbers to the buildings, and for charging the owner or occupant with the expense incident to the numbering of his building or lot, provided that such expense may be collected in the same manner as taxes, and if paid by the occupant, subject to any agreement between him and the owner, may be deducted from the rent payable to the owner.

Numbering houses, etc.

10. For keeping, and every such council shall keep, a record of the highways and of the numbers of the buildings and lots, and for entering therein, and every such council is hereby required to enter therein, a division of the streets with boundaries and distances for public inspection.

Record of streets, numbers, etc.

11. For empowering officers of the municipality, upon the complaint of the owner or occupant of any premises, to enter upon such premises and the land and buildings in the vicinity thereof for the purpose of trapping, removing or exterminating strayed pigeons that are causing annoyance to the owner or occupant or damages to such premises.

Strayed pigeons

12. For requiring vacant lots to be properly enclosed.

Vacant lots

13. For employing and paying one or more watchmen to patrol at night, or between certain hours of the night, any highway or

Appointment of night watchmen

part of a highway to be defined by the by-law and to guard and protect property, and for levying and collecting in the same manner and at the same time as taxes are levied and collected, by special rate, according to its assessed value, upon the land abutting on such highway or part of a highway within the limits defined by the by-law, except vacant lots, the expenses of or incidental to the employment of such night watchmen.

Petition by
ratepayers

(a) The by-law shall not be passed except upon petition of two-thirds of the assessed owners and tenants of the land liable to be charged with the expenses, representing at least two-thirds of the assessed value of such land.

Proof of
signatures

(b) A petition shall not be acted on unless the signatures to it, and that the contents of it were made known to each person before signature, are proved by affidavit.

Liability
of tenant

(c) As between the landlord and tenant, in the absence of any express agreement to the contrary, the tenant is liable for the expenses for the period of his occupation.

When owner
not to
petition

(d) When land is occupied by a tenant, the owner is not entitled to petition.

Water
tanks and
towers

14. For regulating the construction, erection, alteration or repairing of water tanks and water towers whether on buildings or elsewhere, and for prohibiting the construction, erection, altering or repairing of them contrary to such regulations.

Window
cleaners

15. For requiring the installation and maintenance of safety devices for window cleaners, for inspecting such devices and for prohibiting any person from cleaning the outside of windows of buildings on which such devices are installed unless such devices are used. R.S.O. 1960, c. 249, s. 381, pars. 7-16.

Market
by-laws

364. Subject to section 365, by-laws may be passed by the councils of urban municipalities and of townships having a population of not less than 10,000 and of townships bordering on a city having a population of not less than 100,000:

Establishing
markets

1. For establishing, maintaining and regulating markets.

Regulating
vending in
streets, etc.

2. For prohibiting or regulating the sale by retail in the highways or on vacant lots adjacent to them of any meat, fish, vegetables, grain, hay, fruit, flowers, beverages, smallwares and other articles, and for regulating traffic in and preventing the blocking up of the highways by vehicles or otherwise.

Sale of
grain, meat,
farm pro-
duce, small-
wares, etc.

3. For regulating the place and manner of selling and weighing grain, meat, vegetables, fish, hay, straw and other fodder, wood, lumber, shingles, farm produce, smallwares and all other articles exposed for sale, and prescribing the fees to be paid therefor.

Criers and
vendors of
smallwares

4. For prohibiting criers and vendors of smallwares from practising their calling in the market place, or on the highways, or on vacant lots adjacent to the market place or to a highway.

5. For prohibiting the forestalling, regrating or monopoly, of grain, wood, meat, fish, fruit, roots, vegetables, poultry, dairy products, eggs and all articles for family use, that are usually sold in the market, and for prohibiting or regulating the purchase of such things by hucksters, grocers, butchers, runners or wholesalers, or by persons who directly or indirectly purchase or acquire them for resale, provided that farmers and other producers may nevertheless sell such things at stores and shops at any time.

Prohibiting
forestalling,
etc.

hucksters,
etc.

6. For regulating the measuring or weighing of lime, shingles, laths, cordwood, coal, coke, oil or other fuel.

Measuring,
etc., certain
articles

(a) A by-law passed by a municipality under this paragraph may be made applicable to the measuring or weighing of coal and other fuel to be delivered within the municipality or to a point not more than three miles beyond its limits.

Weighing of
fuel for
delivery
beyond
municipal
limits

(b) A by-law passed under this paragraph may require coal and other fuel dealers to make out a ticket showing the weight or quantity of the coal or other fuel purchased after it is weighed or measured in accordance with the by-law, and the by-law may require that the amount so specified and the ticket shall be delivered to the purchaser.

Ticket
showing
weight
required

7. For regulating vehicles, vessels and other things in which anything is exposed for sale or marketed and for imposing a reasonable duty thereon, and establishing the mode in which it shall be paid.

Regulating
vehicles used
in market
vending

8. For selling, after six hours notice, butchers' meat distrained for rent of a market stall.

Sale of meat
distrained

9. For purchasing, leasing, erecting, maintaining and operating weighing machines and weigh-houses, for appointing weigh-masters and for prescribing their duties.

Purchasing
weighing
machines,
etc.

10. For imposing, levying and collecting fees for the use of such weighing machines.

Fees

11. With the approval of the Municipal Board and within the limitations and restrictions and under the conditions prescribed by order of the Board, for requiring all persons who, after a sale thereof, deliver coal or coke within the municipality, by a vehicle, from any coal yard, storehouse, coal-chute, gas house or other place, to have the weight of such vehicle and of such coal or coke ascertained prior to delivery, by a weighing machine established as provided by paragraph 9, to furnish the weigh-master in charge of such weighing machine with, and to surrender to each purchaser, at the time of delivery, a weigh-ticket upon which has been printed or written a description and grade of the coal or coke, the

Weighing
of coal
and coke

name and address of the vendor, and the name of the purchaser, and to have such weigh-ticket dated and signed by such weigh-master and to have him enter thereon the weight of such coal or coke.

Vendor
bound

- (a) Every vendor of coal or coke with respect to which a weigh-ticket has been issued is bound thereby and is not entitled to demand, collect or recover from the purchaser the price of any greater quantity of coal or coke than that shown on such weigh-ticket.

Offence

- (b) Every such vendor who demands, collects or receives from a purchaser the price of any greater quantity of coal or coke than that shown on such weigh-ticket is guilty of an offence and on summary conviction is liable to a fine of not more than \$20.

Car lots

- (c) Nothing in this paragraph authorizes a municipality to require the weighing of coal or coke sold in car lots at shippers' weights.

Measure-
ment of
wood sold
on market

12. For requiring all persons offering or exposing cordwood or firewood for sale upon the market, loaded in or upon any vehicle,

- i. to have such wood measured by a market inspector or by some other official of the municipality appointed for that purpose, who shall mark the measurement in a conspicuous place upon the load or vehicle, before the wood is offered for sale;
- ii. to procure from such inspector or official a measurement ticket signed and dated by him, upon which he has entered the quantity of cordwood or firewood loaded in or upon the vehicle, and the name and address of the vendor;
- iii. to surrender the measurement ticket to the purchaser at or before the time of delivery;
- iv. to pay such fee for measuring as may be imposed.

Measure-
ment of
wood sold
off market

13. For requiring all persons who, after a sale thereof except upon the market, deliver cordwood or firewood within the municipality by a vehicle to surrender to the purchaser thereof when making delivery a ticket signed by or on behalf of such person, upon which shall be legibly written or printed his name and address, the quantity of wood delivered from such vehicle, expressed in terms of a cord of 128 cubic feet, and the price at which the same has been sold.

Kindling,
etc.

- (a) No by-law shall require kindling wood, mill waste or mill-cuttings to be measured.

Storage of
coke

14. For requiring retail vendors of coke selling by weight to store their stock of coke so that it will not be exposed to rain, snow or water, and for prohibiting the sale of coke that is not so stored. R.S.O. 1960, c. 249, s. 382.

365.—(1) No market fee shall be imposed, levied or collected in respect of wheat, barley, rye, corn, oats, or any other grain, hay or other seed, wool, lumber, lath, shingles, cordwood or other firewood, dressed hogs, cheese, hay, straw, or other fodder, brought to market, or upon the market place, for sale or other disposal.

No market fees to be imposed on certain products

(2) No market fee shall be imposed, levied or collected in respect of butter, eggs, poultry, honey, celery, small fruits or other articles in hand baskets, brought to market, or upon the market place, for sale or other disposal, unless a convenient and fit place affording shelter in summer and shelter and reasonable protection from the cold in winter, in which to expose them for sale, is provided by the corporation.

When fees may be charged on butter, etc., brought to market

(3) Where the vendor of an article brought within the municipality in pursuance of a prior contract for the sale of it proceeds directly to the place of delivery, without hawking it upon the highways or elsewhere in the municipality, no market fee shall be imposed, levied or collected in respect of it.

Fees not to be charged on articles delivered in pursuance of prior contract

(4) No market fee shall be imposed, levied or collected in respect of any article brought into the municipality after 10 o'clock in the forenoon, unless it is offered or exposed for sale upon the market place.

Articles brought into municipality after 10 a.m.

(5) No by-law shall require hay, straw or other fodder to be weighed, where neither the vendor nor the purchaser desires to have it weighed or measured.

When articles need not be weighed or measured

(6) A person who has exposed or offered for sale an article in the market place and has paid the prescribed fee, if any, in respect of it may, after 9 o'clock in the forenoon between the 1st day of April and the 1st day of November, and after 10 o'clock in the forenoon between the 1st day of November and the 1st day of April, sell such article elsewhere than in the market place.

Time after which attendance on market not required

(7) Subsection 1 does not apply to a municipality in which there is in force a by-law providing that vendors of articles, in respect of which under the provisions of paragraph 3 of section 364 a market fee may be imposed, may, without paying market fees, offer for sale and sell or otherwise dispose of such articles at any place within the municipality, excepting only at the market place.

Subs. 1 not to apply where by-law in force allowing sale without fee except at the market

(8) Subject to subsection 2, the council of a municipality to which subsection 7 applies may by by-law provide for imposing, levying and collecting market fees from such vendors who voluntarily use the market place for selling such articles or from any person who or whose vehicle remains upon that part of a highway that is within 100 yards of the market place, for the purpose of selling any of such articles other than grain, seeds,

but such by-law may impose fees on persons voluntarily using market; and on others selling within 100 yards of market

Exception
as to sales
to persons
carrying on
business
near market

dressed hogs or wool upon such highway, but driving through or across such part of a highway does not authorize the imposition of any market fee, nor shall any market fees be imposed in respect of an article sold to a person carrying on business and having a *bona fide* store, shop or other similar place of business on such part of a highway.

Fees not to
be charged
where high-
way used
as market

(9) Where a highway is used as a market place or market, or part of a market place or market, no market fees shall be imposed, levied or collected upon articles brought to that part of the highway that is so used, but this subsection does not apply to so much of a highway as adjoins or abuts upon a market square established as a market place.

Case of
municipality
again
imposing
market fees

(10) Subsections 7 to 9 do not apply to any municipality where no market fees were charged or imposed on the 10th day of March, 1882, but subsections 1 to 6 and 11 and 12 apply to such municipality in the event of market fees being thereafter charged or imposed therein.

Power to
regulate
sales when
no fees are
charged

(11) Nothing in subsections 1 to 10 prevents any municipality wherein no market fees are imposed or charged from regulating the sale and the place of sale of any articles within the municipality to the same extent as it might have done before the 10th day of March, 1882.

(a) In this subsection, "market fees" does not include fees for weighing or measuring.

(b) After 9 o'clock in the forenoon between the 1st day of April and the 1st day of November, and after 10 o'clock in the forenoon between the 1st day of November and the 1st day of April, no person shall be compelled to remain on or resort to any market place with any articles that he may have for sale, but may, after the expiration of such hour, sell or dispose of such articles elsewhere than in or on such market place.

Inconsistent
enactments
not to apply

(12) When subsections 1 to 6 or subsections 7 to 9 are in force in any municipality, so much of any Act or law as may be contrary to, and as conflicts with such subsections, is not in force in and does not apply to such municipality.

Right to
sell or lease
market fees

(13) A corporation may sell or lease its market fees with the right to collect them. R.S.O. 1960, c. 249, s. 383.

366. By-laws may be passed by the councils of counties, cities, towns and townships:

R.S.O. 1960, c. 249, s. 384, *part*; 1960-61, c. 59, s. 17.

Grants to
universities,
colleges,
historical
societies, etc.

1. For making grants in aid of the University of Toronto or of Upper Canada College, or of any other university or college in Ontario, or of any historical, literary or scientific society.

- (a) Such grants may be made from time to time, and may be either by one payment, or by an annual payment for a limited number of years, and upon such terms and conditions as may be agreed upon and may include supplying Upper Canada College with water from the waterworks of the City of Toronto without charge. R.S.O. 1960, c. 249, s. 384, par. 1.

2. For endowing fellowships, scholarships or exhibitions, and other similar prizes, in the University of Toronto, or in Upper Canada College, or in any other university or college in Canada, for competition among the pupils of the secondary schools in the municipality. R.S.O. 1960, c. 249, s. 384, par. 2; 1966, c. 93, s. 28 (1).

Endowing fellowships, etc., in universities and colleges

3. For granting aid to art schools approved by the Department of Education.

Aid to art schools

4. For granting aid to a society as defined in *The Training Schools Act* for the erection, establishment or equipment of a private training school, where the council is represented on the board of the society. R.S.O. 1960, c. 249, s. 384, pars. 3, 4.

Aid to private training schools
R.S.O. 1970, c. 467

5. For making permanent provision for defraying the expenses of the attendance at the University of Toronto or at Upper Canada College, or at any other university or college in Canada, of such of the pupils of any secondary school of the municipality as are unable to incur the expense, but are desirous of and in the opinion of the head master thereof possess competent attainments for competing for any scholarship, exhibition or other similar prize offered by such university or college. R.S.O. 1960, c. 249, s. 384, par. 5; 1966, c. 93, s. 28 (2).

Supporting certain pupils at universities, colleges, etc.

6. For making similar provision for the attendance at any secondary school, for the like purpose, of pupils of public schools of the municipality. R.S.O. 1960, c. 249, s. 384, par. 6.

Similar provision for attendance at secondary schools

367. By-laws may be passed by the councils of towns, villages and townships:

1. For making grants in aid of, or to build, preserve, enlarge or improve, any secondary school in another municipality. R.S.O. 1960, c. 249, s. 385.

Grants to secondary schools

368. By-laws may be passed by the councils of cities and towns:

1. For licensing, regulating and governing laundrymen and laundry companies and for inspecting and regulating laundries.

Licensing, etc., of laundries

- (a) The by-law shall not apply to or include women carrying on a laundry business in private dwelling houses, and

employing female labour only, or to such dwelling houses.

- (b) The by-law may provide that a licence shall not be granted if it is considered that the location of the laundry is an undesirable one.

Aid to
lifeboat
associations

2. For granting aid to any organization owning, manning and working lifeboats or other apparatus for life-saving purposes.

Licensing
and regu-
lating mas-
sagists, etc.

3. For licensing, regulating and governing massagists and for inspecting and regulating massage parlours, and such by-laws may provide for the enforcement thereof through the medical health department or police department of the city or town.

Police signal
system

4. For purchasing and installing apparatus, appliances and equipment for a police signal system at a cost not exceeding \$20,000 in the case of a city and \$10,000 in the case of a town, and for the issue of debentures therefor, payable in equal annual instalments of principal and interest during a period not exceeding ten years.

- (a) It is not necessary to obtain the assent of the electors to the by-law if it is passed by a vote of two-thirds of all the members of the council.

Commission
may manage
sewage
works
R.S.O. 1970,
c. 390

5. For placing the management of sewage works under a commission established under *The Public Utilities Act*, provided the by-law shall not be passed without the assent of the municipal electors.

Super-
annuation
and benefit
funds for
fire and
police force

6. For granting aid for the establishment and maintenance of superannuation and benefit funds for the members of the police force and of the fire brigade, and of other officers and employees of the corporation, and of their wives and families.

- (a) This paragraph does not apply to superannuation and benefit funds established after the 1st day of May, 1939. R.S.O. 1960, c. 249, s. 386.

369. By-laws may be passed by the councils of cities:

Public bath
premises

1. For licensing, regulating and governing owners or keepers of any class or classes of public bath premises operated for profit, and for revoking any such licence. R.S.O. 1960, c. 249, s. 387.

370. By-laws may be passed by the councils of cities having a population of not less than 300,000:

Power to
make pay-
ments on
behalf of
indigents for
dwelling
repairs

1. For providing and paying on behalf of any indigent inhabitant the cost, not exceeding \$200, of repairs necessary to make a dwelling habitable. R.S.O. 1960, c. 249, s. 388.

371. By-laws may be passed by the councils of cities having a population of not less than 50,000:

1. For the corporation becoming a member of the National Waterways Association of Canada and paying the fees for such membership and for making contributions towards the expenses of such Association and paying the expenses of delegates to any meeting of it or upon its business.

Membership
in National
Waterways
Association

2. For setting apart one or more highways or parts of highways on which horses may be ridden or driven more rapidly than is permitted upon other highways, and for regulating the use for such purpose of any such highway.

Setting apart
streets for
fast driving

(a) If a majority of the property owners on any such street petition against such by-law, it shall be repealed.

3. For authorizing the seizing, in order to prevent their use as food, of unslaughtered cattle, sheep, calves and hogs that have died within the municipality, and for disposing of the carcasses so as not to endanger the public health, and so as to secure to the owner such value as remains over and above the expenses incurred in disposing of them.

Seizure of
cattle, etc.,
unfit for
food

372. By-laws may be passed by the councils of cities and of local municipalities, other than cities, situate within ten miles of a city having a population of not less than 100,000:

R.S.O. 1960, c. 249, s. 390, *part.*

1. For licensing, regulating and governing the keepers of shops or places where animals or birds for use as pets are sold or kept for sale.

Licensing,
regulating
and
governing
pet shops

373. By-laws may be passed by the councils of counties:

1. For granting aid to any society, organization or body in the county having for its objects the promotion or protection of agriculture, education or social welfare, where no specific authority for granting such aid is contained in any statute; provided the amount of aid that may be granted under the authority of this paragraph shall not exceed in the aggregate \$5,000 in any year.

Aid to agri-
cultural and
other bodies

2. For granting aid to owners of cattle, horses, goats, sheep or swine for losses caused by rabies, not in excess of the following rates for each animal:

Aid for
animal losses
due to rabies

cattle	\$250
horses	100
goats	40
sheep	40
swine	40

Protecting
booms

3. For protecting and regulating booms on any stream or river for the safe keeping of timber, saw-logs and staves. R.S.O. 1960, c. 249, s. 391, pars. 1-3.

Establish-
ment of
county farms

4. For acquiring lands in the county and erecting thereon farm and other buildings and for establishing, developing, improving, equipping, operating and maintaining such lands and buildings as a county farm for educational, experimental and other purposes in the promotion and advancement of agriculture in all its branches, and for the issue of debentures therefor, other than for the expenses of operation and maintenance.

- (a) It is not necessary to obtain the assent of the electors to any by-law passed under this paragraph if it is passed by a vote of two-thirds of all the members of the council.
- (b) A county council that has established a county farm under this paragraph may enter into agreements with the Minister of Agriculture and Food for its development, improvement and equipment and for its operation and maintenance by or in conjunction with the Department of Agriculture and Food for such periods and upon such terms and conditions as from time to time may be agreed. R.S.O. 1960, c. 249, s. 391, par. 4, *amended*.

Fences

5. For the exercise in respect of fences along highways under the jurisdiction of the council of the powers conferred upon the councils of local municipalities by paragraph 20 of subsection 1 of section 354.

Regulating
erection of
poles, towers,
wires, etc.,
on county
roads
R.S.O. 1970,
c. 289

6. Subject to *The Municipal Franchises Act*, for permitting and regulating the erection and maintenance of electric light, power, telegraph and telephone poles, towers and wires on, and the laying of pipes or conduits for the conveyance of water, gas or sewage under, the highways under the jurisdiction of the council. R.S.O. 1960, c. 249, s. 391, pars. 5, 6.

Sleigh
runners

7. For providing that no sleigh or other vehicle upon runners for the conveyance of articles of burden, goods, wares or merchandise shall be used by any person residing within the municipality on any of the highways within the municipality unless the runners thereof, measuring from centre to centre, are apart at the bottom at least four feet.

- (a) The by-law may exempt from its operation all sleighs or vehicles on runners owned at the time of its passing by persons resident within the municipality, and shall not come into force until the expiration of one year from the date upon which it was passed.

Refuse from
grass or
clover seed

8. For compelling the destruction or regulating the disposal of the refuse obtained in the process of cleaning grass or clover seed.

9. For purchasing supplies of any or all kinds of vegetables, seeds and seed roots and tubers and donating them to residents of the county on such terms and conditions as may be fixed by the by-law for the purpose of promoting and aiding the production of crops.

Purchase
and donation
of seeds

10. If there are gravel or macadamized highways under the jurisdiction of the council and under its immediate control, that are being kept up and repaired by municipal taxation, and upon which no toll is collected,

Regulation
of traffic
on certain
county roads

- (a) for licensing, regulating and governing the keepers of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles used or kept for hire, and teamsters;
- (b) for regulating the fares to be charged for the conveyance of goods or passengers;
- (c) subject to *The Highway Traffic Act*, for regulating the traffic on such highways.

Licensing
livery
stables

Rates of fare

Regulating
traffic
R.S.O. 1970,
c. 202

11. For installing services in land owned by the county in any municipality situated in the county, subject to the approval of the local municipality in which the land is situated, to assist in the disposal of the land for building purposes. R.S.O. 1960, c. 249, s. 391, pars. 8-12.

Installation
of services
on county
land

12. For the exercise, in respect of property of the county, of the powers conferred upon the councils of local municipalities in respect of property of such municipalities by paragraph 112 of subsection 1 of section 354 and the provisions of such paragraph apply *mutatis mutandis*. 1968-69, c. 74, s. 23 (2).

Prohibiting
unauthorized
parking on
county
property

374. By-laws may be passed by the councils of townships in unorganized territory:

1. For providing that no sleigh or other vehicle upon runners for the conveyance of articles of burden, goods, wares or merchandise shall be used by any person on any of the highways within the municipality unless the runners thereof, measuring from centre to centre, are apart at the bottom at least four feet. R.S.O. 1960, c. 249, s. 392.

Sleigh
runners

375. The council of a township in unorganized territory having a population of not less than 5,000 and which has been declared by order of the Municipal Board to be a township part of which is so built up and populated as to entitle it to be incorporated as a town under this Act may pass by-laws for the purposes mentioned in,

Power of
certain
townships in
unorganized
territory to
pass by-laws
for certain
purposes

- (a) paragraph 3 of section 363;
- (b) sections 364 and 365;
- (c) paragraph 1 of section 378;

(d) paragraph 26 of section 352;

(e) paragraphs 1 and 2 of section 382. R.S.O. 1960, c. 249, s. 393.

376. By-laws may be passed by the councils of townships:

Fire areas
in townships

1. For exercising the powers conferred by paragraph 25 of subsection 1 of section 354 in respect of any defined area in the township, and for levying a special rate on all the rateable property in the defined area according to the last revised assessment roll sufficient to pay the cost incurred or to meet the annual payments of principal and interest upon any debentures issued in respect of such cost, provided that, where two-thirds of the owners of lands in the area, according to the last revised assessment roll, petition therefor, the council may by by-law levy the special annual rate for the purposes mentioned in this paragraph upon that part of the rateable property in the area that consists of the assessments for buildings only as shown on such assessment roll.

Appointing,
insuring and
paying of
fire fighters

2. For appointing, insuring and paying fire fighters and others employed in connection with the fire hall and for levying a special annual rate on all the rateable property in such area according to the last revised assessment roll to meet the cost thereof and the cost of the maintenance and repair of the fire hall, fire engines, apparatus and appliances; provided that, where two-thirds of the owners of lands in the area, according to the last revised assessment roll, petition therefor, the council may by by-law levy the special annual rate for the purposes mentioned in this paragraph upon that part of the rateable property in the area that consists of the assessments for buildings only as shown on such assessment roll.

Area fire-
protection
agreements

3. For entering into agreement with any other municipality or person upon such terms and conditions and for such consideration based on cost as may be agreed upon or, failing agreement, as may be determined by the Municipal Board for the use of the fire-fighting equipment of such municipality or person, or any of it, in the event of fire in any defined area of the township, and for levying a special annual rate on all the rateable property in such area to defray the expenses incurred under and incidental to the agreement, provided that, notwithstanding the provisions of any such agreement, no liability accrues to the municipality or person for failing to supply the use of the fire-fighting equipment, or any of it.

Establish-
ment of joint
fire brigade
by municipi-
palities

4. For entering into agreement with any other municipality or municipalities for establishing, providing and maintaining, jointly, a fire brigade, fire halls, fire engines, apparatus and equipment and for the maintenance and use thereof upon such basis as to the distribution of cost as the agreement may stipulate.

- (a) Each municipality shall issue its own debentures for its share of the capital cost of providing such fire services, and the provisions of paragraphs 1 to 3 are applicable.

5. For making grants,

- (a) to the Ontario Federation of Agriculture if a by-law under section 306 is not in force in the township; and
- (b) to farm organizations or agricultural commodity groups. R.S.O. 1960, c. 249, s. 394, pars. 1-5.

Grants to
Ontario
Federation of
Agriculture
and farm
organizations

6. For authorizing the annual dues of members of any farm organization approved by the Minister of Agriculture and Food to be entered in the collector's roll and collected in the same manner as taxes.

Addition to
collector's
roll of dues
of members
of farm
organizations

- (a) A by-law under this paragraph applies only where the annual dues for all members of the farm organization are uniform.
- (b) A by-law under this paragraph remains in force until amended or repealed and it is not necessary to pass such by-law annually.
- (c) Upon receipt by the clerk of the township, before the certification of the collector's roll, of written notice from a member of such a farm organization instructing that the annual dues of such member be collected in the same manner as taxes for which he is liable, the dues of such member shall be entered in the collector's roll in a special column designated by the name of the farm organization.
- (d) A member who has given a notice under clause c may by similar notice require the clerk of the township to discontinue the collection of dues.
- (e) Such dues do not form a charge upon land and are not subject to a penalty for non-payment.
- (f) The treasurer of the township shall deposit the dues collected in a special account or accounts and shall from time to time pay such dues to the treasurer of the proper farm organization. R.S.O. 1960, c. 249, s. 394, par. 6, amended.

7. For authorizing the reeve or deputy reeve or, in case of the absence of the reeve and deputy reeve, any member of the council, in the event of an emergency arising in the township by reason of timber or forest fires, to call out such number of resident male inhabitants of the township as may be necessary to fight and put out any such fires, and for fixing the amount of the remuneration to be paid to such residents for the services rendered by them.

Authority to
call out help

Numbering
buildings
and lots in
parts of
township

8. For numbering the buildings and lots along any highway, street, beach, park, reserve or any other property in the township that it is considered necessary to number by the township council, and for affixing numbers to the buildings, and for charging the owner or occupant with the expense incident to the numbering of his building, lot or property.

- (a) Such expense may be collected in the same manner as taxes, and, if paid by the occupant, subject to any agreement between him and the owner, may be deducted from the rent payable to the owner.

Records of
streets and
numbers, etc.

9. For keeping, and every such council shall keep, a record of the highways, streets, beaches, parks, reserves and of the numbers of the buildings and lots, and for entering therein, and every such council is hereby required to enter therein, a division of the streets with boundaries and distances for public inspection.

Restrictions
on operation
of portable
steam
engines

10. For prescribing the distance from a highway within which unenclosed portable steam engines may not be used for running a sawmill or a shingle mill.

Keeping
highways
open in
winter

11. For providing for keeping open the highways during the season of sleighing in each year, and for the application of so much of the commutation of the statute labour fund as may be necessary for that purpose.

Requiring
overseers of
highways to
keep open
highways

12. For requiring the overseers of highways or the pathmasters to make and keep open the highways during the season of sleighing.

Powers of
overseers

- (a) Such overseers and pathmasters may require the persons liable to perform statute labour to assist in keeping open such highways, and shall give to any person so employed a certificate of his having performed statute labour and of the number of days work done, for which he shall be allowed on his next season's statute labour. R.S.O. 1960, c. 249, s. 394, pars. 7-12.

Regulating
vending in
streets

13. For prohibiting or regulating the sale by retail in the highways or on vacant lots adjacent to them of any meat, vegetables, grain, hay, fruit, beverages, smallwares and other articles, and for regulating traffic in and preventing the blocking up of the highways by vehicles or otherwise.

Erecting and
maintaining
weighing
machines

14. For erecting and maintaining weighing machines within the municipality or with an adjacent village, and charging fees for the use thereof.

Purchase of
wet land
from Gov-
ernment

15. For purchasing any wet land in the township, the price of which, in case of Crown lands, shall be fixed by the Lieutenant Governor in Council, and for draining such land. R.S.O. 1960, c. 249, s. 394, pars. 14-16.

377. By-laws may be passed by the councils of towns, villages and townships and by boards of commissioners of police of cities:

1. For licensing, regulating and governing teamsters, carters, draymen, owners and drivers of cabs, buses, motor or other vehicles used for hire or any class or classes thereof; for establishing the rates or fares to be charged by the owners or drivers of such vehicles for the conveyance of goods or passengers either wholly within the municipality or to any point not more than three miles beyond its limits, and for providing for the collection of such rates or fares; for limiting the number of cabs, buses, motor or other vehicles used for hire, or any class or classes thereof; and for revoking any such licence.

Teamsters,
cab owners,
cab drivers,
vehicles for
hire, etc.

2. For licensing, regulating and governing keepers of livery stables and of horses used for hire.

Livery
stables

3. For licensing, regulating and governing persons keeping boats for hire, and for regulating and inspecting boats kept by such person, and for revoking any such licence.

Boat livery
keepers

4. For requiring any or all persons mentioned in paragraphs 1, 2 and 3 to provide public liability, property damage, cargo or other insurance in the form and to the amounts of coverage prescribed in the by-law and, where such insurance is not so provided, the council or board may refuse, refuse to renew or revoke any licence issued under paragraph 1, 2 or 3.

Insurance
for team-
sters, cab
owners, etc.

5. For licensing, regulating and governing persons selling newspapers and magazines upon any highway and for restricting the operations of such persons to a particular location upon a highway, and for restricting the operations of such persons to the sale of newspapers and magazines only, and for prohibiting the selling or offering for sale upon any highway of books, periodicals, pamphlets or other printed matter, except newspapers and magazines, and for prohibiting the taking or soliciting of subscriptions to magazines upon any highway or in any public place, and for revoking any such licence.

Sale of
newspapers
and maga-
zines on
streets

6. For licensing, regulating and governing taxi-cab brokers and for revoking any such licence and for requiring taxi-cab brokers to provide public liability, property damage, cargo or other insurance in the form and to the amounts of coverage prescribed in the by-law in respect of each taxi-cab operated in association with such broker and, where such insurance is not so provided, the council or board may refuse, refuse to renew or revoke any such licence.

Taxi-cab
brokers

- (a) In this paragraph, "taxi-cab broker" means any person who accepts calls in any manner for taxi-cabs that are used for hire and that are owned by persons other than himself, his immediate family or his employer. R.S.O. 1960, c. 249, s. 395.

378. By-laws may be passed by the councils of counties, towns, villages and townships and by boards of commissioners of police of cities:

Licensing and regulating salvage shops, etc.

1. For licensing, regulating and governing salvage shops, salvage yards, second-hand goods shops and dealers in second-hand goods, and for revoking any such licence.

- (a) In this paragraph,
 - (i) "dealers in second-hand goods" includes persons who go from house to house or along highways for the purpose of collecting, purchasing or obtaining second-hand goods,
 - (ii) "salvage yard" includes an automobile wrecking yard or premises,
 - (iii) "second-hand goods" includes waste paper, rags, bones, bottles, bicycles, automobile tires, old metal and other scrap material and salvage.
- (b) The by-law may apply to and require every person using a vehicle for any of the purposes mentioned in this paragraph, either on his account or as the agent or servant of another person, to take out a licence.
- (c) The power of licensing does not apply to persons engaged in any of the objects mentioned in this paragraph for patriotic or charitable purposes.
- (d) The fee to be paid for the licence shall not exceed \$20 for one year.
- (e) A by-law of a county passed under this paragraph shall not have force in any municipality in the county after such municipality hereby authorized so to do has passed a by-law for a similar purpose.
- (f) Any licence issued under this paragraph may be issued to authorize the licensee to deal in one class only of second-hand goods or in more than one class as may be specified in the licence, and such licensee is not entitled to deal in any class of second-hand goods not covered by his licence. R.S.O. 1960, c. 249, s. 396.

379. By-laws may be passed by the councils of counties, separated towns and towns in unorganized territory:

Public fairs for sale of cattle, etc.

1. For authorizing, on petition of at least fifty electors, the holding, at one or more of the most public and convenient places in the municipality, of public fairs restricted to the sale, barter and exchange of cattle, horses, sheep, pigs and articles of agricultural production or requirement.

- (a) The by-law shall prescribe rules and regulations for the government of the fairs, and appoint a person to see that they are carried out, and shall also fix the fees to be paid

to him by persons attending the fair, and public notice of the passing of the by-law shall be forthwith given by the council.

2. For appointing one or more surgeons for the institutions under the control of the corporation. R.S.O. 1960, c. 249, s. 397, *amended*. Appointment of surgeons

380. By-laws may be passed by the councils of counties, cities, separated towns, towns in unorganized territory and townships having a population of not less than 100,000:

R.S.O. 1960, c. 249, s. 398, *part*; 1960-61, c. 59, s. 19.

1. For defining areas within which tanneries, salvage shops, salvage yards or second-hand goods shops, or industries of a noxious or unhealthy character, may not be carried on. Defining areas in which certain trades may not be carried on

(a) This paragraph does not apply to a tannery erected before the 7th day of April, 1890. R.S.O. 1960, c. 249, s. 398, *part*, par. 1.

381.—(1) By-laws may be passed by the councils of counties, townships, towns and villages and of cities having a population of less than 100,000, and by boards of commissioners of police of cities having a population of not less than 100,000:

1. For licensing, regulating and governing persons who go from place to place or to a particular place with goods, wares or merchandise for sale, or who carry and expose samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards. Licensing, etc., salesmen

(a) No such licence is required for hawking, peddling or selling goods, wares or merchandise, When licence not required

(i) to wholesale or retail dealers in similar goods, wares or merchandise, or

(ii) if the goods, wares or merchandise are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the grower, producer or manufacturer or his agent or employee having written authority so to do, in the municipality in which the grower, producer or manufacturer resides, or

(iii) if the goods, wares or merchandise are grown or produced by a farmer resident in Ontario who offers for sale or sells only the produce of his own farm, or

(iv) if the goods, wares or merchandise are hawked, peddled or sold by a person who pays business tax in the municipality, or by his employee, or by his agent, or

(v) if the goods, wares or merchandise are hawked, peddled or sold by an agent of the grower, producer

or manufacturer, acting on behalf of a dealer who pays business tax in the municipality in respect of premises used for the sale of such goods, wares or merchandise, or

- (vi) by persons who sell milk or cream or fluid milk products to the consumer or to any person for resale.

Production of authority of servant

- (b) Such servant or employee shall exhibit his authority when required so to do by any municipal or peace officer.

Onus of proof that no licence required

- (c) In a prosecution for a breach of the by-law, the onus of proving that he does not for any of the reasons mentioned in clause *a* require to be licensed is upon the person charged.

Certain powers not affected

- (d) Nothing in this paragraph affects the powers to pass by-laws under sections 364 and 365, paragraph 1 of section 382, and paragraphs 16 and 17 of section 383.

Force of by-law of town, etc., not separated

- (e) Where the council of a town, village or township not separated from a county has passed a by-law under this paragraph, the by-law of the county is not in force in the town, village or township while the by-law of such town, village or township remains in force.

Fees

- (f) The fee to be paid for the licence under by-laws passed under this paragraph may be lower in the case of persons who have resided continuously within the municipality for which the licence is sought for at least one year prior to the application therefor than in the case of persons who have not so continuously resided, but no licence fee in excess of \$2 shall be prescribed in the by-law without the approval of the Department.

Licence to be produced on demand

- (g) The licensee shall at all times while carrying on his business have his licence with him and shall upon demand exhibit it to any municipal or peace officer, and if he fails to do so is guilty of an offence, unless the same is accounted for satisfactorily, and on summary conviction is liable to a fine of not less than \$1 and not more than \$5.

Penalty

- (h) If a peace officer demands the production of a licence by any persons to whom the by-law applies and the demand is not complied with, it is the duty of the peace officer and he has power to arrest such person without a warrant and to take him before the nearest justice of the peace, there to be dealt with according to law.

Supplying licences

2. For providing the treasurer or clerk of the county, or the clerk of any municipality within the county, with licences under

by-laws passed under paragraphs 1 and 7 to be issued under such regulations as may be prescribed to persons applying for them.

3. For prohibiting the sale of refreshments or confections, including, without limiting the generality of the foregoing, fruit, candy, peanuts, popcorn, ice cream, ice cream cones, iced milk and other iced confectionery from a basket or wagon, cart or other vehicle upon any highway or part of it or in any public park or other public place, but no by-law passed under this paragraph applies to a farmer, market gardener or other person selling or delivering goods at any place of business or residence upon such highway or part thereof.

Prohibiting
sale of
refresh-
ments on
public
streets, etc.

4. For licensing, regulating and governing persons not being wholesale dealers residing in Ontario who go from place to place or to a particular place to make sales or deliveries of fruits and garden produce to a retail dealer and for licensing, regulating and governing bakers, butchers and grocers whose place of business is out of Ontario but who go from place to place or to a particular place in Ontario to make sales or deliveries of bread, meat and groceries to any person other than to a retail dealer.

Licensing
dealers in
fruit

(a) The fee to be paid for the licence shall not exceed \$250.

(b) The provisions of clauses *e*, *g* and *h* of paragraph 1 apply to a by-law passed under this paragraph.

5. For limiting the number of and licensing and regulating victualling houses, ordinaries, and houses where fruit, fish, oysters, clams or victuals are sold to be eaten therein, and places for the lodging, reception, refreshment or entertainment of the public, and for revoking the licence.

Limiting
number of
and licensing
victualling
houses, etc.

(a) The sum to be paid for the licence shall not exceed \$20.

6. For licensing, regulating and controlling all places where food stuffs intended for human consumption are made for sale, offered for sale, stored or sold.

Licensing
food shops

(a) The licence fee shall not exceed the sum of \$1 for one year.

7. For licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, and for prohibiting the granting of a licence to an applicant who is not of good character or whose premises are not suitable for the business of auctioneer or are upon a residential or other highway in which it is considered not desirable that the business should be carried on; for ascertaining by such means as the by-law may provide whether an applicant is not of good character or his premises are not suitable for the business and for determining the time the licence shall be in force; and for revoking any such licence.

Auctioneers

- (a) No such by-law applies to a sheriff or bailiff offering for sale goods or chattels seized under an execution or distrained for rent.
- (b) A by-law of a county passed under this paragraph does not have force in a town, village or township that has passed a by-law for a similar purpose.

Bill posters

8. For licensing, regulating and governing bill posters, advertising sign painters, bulletin board painters, sign posters and bill distributors, and for prohibiting the posting up or distributing of posters, pictures or hand bills that are indecent or tend to corrupt morals.

- (a) A by-law of a county passed under this paragraph does not have force in a town, village or township that has passed a by-law for a similar purpose.
- (b) A by-law passed under this paragraph may provide that no such licence shall be required by a person who works only as an employee of a person licensed. R.S.O. 1960, c. 249, s. 399 (1); 1970, c. 135, s. 8.

By-law to cover sales on county boundary lines

(2) A by-law passed by a council of a county under paragraphs 1 to 4 of subsection 1, whether the same is mentioned or not, covers and includes the boundary line or highway between such county and an adjoining county, and a sale made on such boundary line or highway to a resident of a county in which such by-law is in force is a breach of such by-law in the same manner and with like consequence and effect as if made wholly within the county. R.S.O. 1960, c. 249, s. 399 (2).

382. By-laws may be passed by the councils of towns, villages and townships and of cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000:

Regulating sale of meat

1. For regulating the storage, handling and sale of fresh meats and of fresh fish and prescribing the equipment and appliances necessary to conduct such business under sanitary conditions, and for granting annually or oftener licences for the sale of fresh meat in quantities less than by the quarter carcass and of fresh fish and fixing and regulating the places where such sale shall be allowed, and for prohibiting the sale of fresh meat in less quantities than the quarter carcass and of fresh fish, unless by a licensed person and in a place authorized by the council.

- (a) The power conferred by this paragraph is not affected or restricted by anything in section 365.
- (b) Nothing in this paragraph affects the powers conferred by paragraphs 3 and 4 of section 364.
- (c) The fee to be paid for the licence shall not exceed \$50 in a city and \$25 in a town, township or village.

2. For licensing, regulating and governing keepers of stores and shops where tobacco, cigars or cigarettes are sold by retail, and for revoking any such licence.

Licensing and regulating keepers of tobacco stores

3. For licensing, regulating and governing photographers and other persons who for gain use photographic cameras or other similar devices in or upon any highway or public place, and for revoking any such licence. R.S.O. 1960, c. 249, s. 400, pars. 1-3.

Licensing, etc., street photographers

4. For licensing, regulating and governing photographers and other persons who for gain use photographic cameras or other similar devices and who, not being residents of the municipality, go from place to place or to a particular place, notwithstanding that any product is to be delivered in the municipality afterwards, provided that this paragraph does not apply to photographers who take photographs for use in newspapers, magazines or other periodicals or in television broadcasts or to photographers on specific assignment to local industries. R.S.O. 1960, c. 249, s. 400, par. 4; 1961-62, c. 86, s. 44.

Licensing non-resident transient photographers

383. By-laws may be passed by the councils of towns, townships and villages and of cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000:

1. For licensing, regulating and governing persons who for hire or gain, and proprietary clubs, that directly or indirectly keep, or have in their possession, or on their premises, any billiard, pool or bagatelle table, or keep or have any such table, whether used or not, in a house or place of public entertainment or resort; for limiting the number of licences to be granted and the number of such tables that shall be licensed, and for revoking any such licence.

Billiard, pool and bagatelle tables

(a) "Proprietary club" means all clubs other than those in which the use of any such table is only incidental to the main objects of the club.

2. For licensing, regulating and governing the owners of barber shops and hairdressing establishments, and for revoking any such licence.

Barber shops, etc.

3. For licensing, regulating and governing drain contractors, drain layers and persons who install septic tanks or repair or reconstruct drains, remove tree roots or other obstructions from drains and private drain connections by mechanical or other means, and for revoking any such licence.

Drain contractors, etc.

4. For licensing, regulating and governing persons who carry on the business of teaching persons to operate motor vehicles and driving instructors employed in such business, and for regulating and governing the equipment used in such business, and for revoking any such licence.

Driving schools and instructors

- (a) The licence fee shall not exceed \$50. R.S.O. 1960, c. 249, s. 401, pars. 1-4.

Electrical
workers

5. For examining, licensing, regulating and governing electrical contractors and master electricians or for permitting them by reason of registration with the Electrical Contractors Association of Ontario or other qualification to carry on their trade without examination or licence, or both.

- (a) In this paragraph "master electrician" means a person who is skilled in the planning, superintending and installing of wires, conduits, apparatus, fixtures or other appliances for the carrying or using of electricity for light, heat or power purposes, who is familiar with the laws, rules and regulations governing the same, who has a regular place of business in Ontario and who, himself, or by journeymen electricians in his employ, performs electrical work; and "journeyman electrician" means a person who has been issued a certificate of qualification in the trade of electrician by the Department of Labour.
- (b) The by-law does not apply to the employees of a public service commission or corporation. 1967, c. 55, s. 17; 1968-69, c. 74, s. 24 (1).

Exhibitions,
bowling
alleys, etc.
R.S.O. 1970,
c. 459

6. For regulating and licensing, subject to the provisions of *The Theatres Act*, exhibitions held for hire or gain, theatres, music halls, bowling alleys, moving picture shows, public halls and all places of amusement, and for prohibiting the location of them, or a particular class of them, on land abutting on any highway or part of a highway to be named in the by-law, and for revoking any such licence.

Exhibitions
of wax
works,
shows, etc.

7. For prohibiting or regulating and licensing exhibitions of wax works, menageries, circus-riding, and other like shows usually exhibited by showmen, and for regulating and licensing roller skating rinks and other places of like amusement, and merry-go-rounds, switchback railways, carousels and other like contrivances, and for imposing penalties not exceeding the amount of the licence fee on offenders against the by-law, and for levying the same by distress and sale of the goods and chattels of the showman or proprietor, or belonging to or used in such exhibition or show whether owned or not owned by such showman or proprietor.

- (a) A licence shall not be granted for any such exhibition or show to be held on the days of the exhibition of any district or township agricultural society, within 300 yards from the grounds of the society, or for any such exhibition or show in or in connection with which gambling is carried on or goods, wares or merchandise are sold or trafficked in.

(b) The fee to be paid for the licence shall not exceed \$500.

8. For licensing, regulating and governing dealers in coal, coke, oil or other fuel, and for revoking or suspending the licence of any such dealer.

Licensing,
etc., fuel
dealers

(a) The fee for such licence shall not exceed \$5 per year.

(b) A by-law passed under this paragraph shall include dealers in coal, coke, oil or other fuel who by themselves or their employees, agents, canvassers or solicitors take orders for or deliver fuel within the municipality.

9. For licensing, regulating and governing persons who deliver coal or other fuel, and for revoking any such licence.

Fuel
delivery
men

10. For licensing, regulating and governing persons who carry on the business of installing insulation in buildings, and for revoking any such licence.

Installers of
insulation

11. For licensing, regulating and governing vehicles from which refreshments are sold for consumption by the public, and for revoking any such licence. R.S.O. 1960, c. 249, s. 401, pars. 6-11.

Refreshment
vehicles

12. For licensing, regulating and governing plumbing contractors, master plumbers and journeyman plumbers.

Plumbers

(a) In this paragraph, "master plumber" means a person who is skilled in the planning, superintending and installing of plumbing, is familiar with the laws, rules and regulations governing the same, has a regular place of business in Ontario and who himself or by journeyman plumbers under his supervision performs plumbing work; and "journeyman plumber" means a person who has been issued a certificate of qualification in the trade of plumber by the Department of Labour.

(b) A certificate of qualification referred to in clause *a* shall be accepted as sufficient qualification for a licence as a journeyman plumber without further examination. 1968-69, c. 74, s. 24 (2).

13. For licensing, regulating and governing keepers of shoe repair or shoe shine shops, and for revoking any such licence.

Shoe repair
shops, etc.

14. For fixing days when persons and organizations in charitable or patriotic work may solicit contributions of money from persons on the highways of the municipality. R.S.O. 1960, c. 249, s. 401, pars. 13-14.

Tag days

15. For licensing, regulating and governing tourist camps, trailer camps and motels and for designating areas of land to be used as tourist camps, trailer camps or motels, and for prohibiting the use of other land for such purposes.

Tourist and
trailer camps

(a) In this paragraph,

Interpre-
tation

- (i) "tourist camp" includes auto camp and any parcel of land or premises equipped with cabins used or maintained for the accommodation of the public, and any parcel of land or premises used or maintained as a camping or parking ground for the public whether or not a fee or charge is paid or made for the rental or use thereof; and
- (ii) "trailer camp" means land in or upon which any vehicle, so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, is placed, located, kept or maintained, notwithstanding that such vehicle is jacked-up or that its running gear is removed, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein.

Licensing
and regu-
lating

(b) Any by-law passed under this paragraph may, among other things,

- (i) require trailer camps to be divided into lots having such minimum area as the by-law may prescribe,
- (ii) provide for the issue of licences for a period of one month or longer to the owner of a trailer camp for each lot to be made available by such owner for the occupancy of a trailer during the currency of a licence and prohibit the use of any lots for the occupancy of trailers without a licence therefor.
- (iii) require a licence fee of not more than \$20 per month payable by the owner of a trailer camp for each such lot and require fees to be paid in advance. R.S.O. 1960, c. 249, s. 401, par. 15; 1960-61, c. 59, s. 20.

Licensing
and regu-
lating
transient
traders

16. For licensing, regulating and governing transient traders and other persons whose names have not been entered on the assessment roll in respect of business assessment for the then current year, and who offer goods, wares or merchandise for sale by auction, conducted by themselves or by a licensed auctioneer or otherwise, or who offer them for sale in any other manner.

Requirement
as to obtain-
ing licence
before doing
business

17. For requiring transient traders and other persons whose names are not entered on the assessment roll or are entered on it for the first time, in respect of business assessment, and who so offer goods, wares or merchandise for sale, to pay a licence fee before commencing to trade.

For the purpose of paragraph 16 and this paragraph,

Interpre-
tation

- (a) "Transient trader" includes any person commencing business who has not resided continuously in the munic-

ipality for at least three months next preceding the time of his commencing such business there.

- (b) The by-law does not apply to the sale of the stock of a bankrupt or an insolvent, within the meaning of any bankruptcy or involency Act in force in Ontario, nor to the sale of any stock damaged by or by reason of fire, which is being sold or disposed of within the municipality in which the business was being carried on at the time of the bankruptcy, insolvency or fire, so long as no goods, wares or merchandise are added to such stock. Stock of insolvent

- (c) The by-law does not apply to the sale of a business to a *bona fide* purchaser who continues the business. Bona fide purchaser

- (d) Subject to clause e, the fee to be paid for a licence in the case of a transient trader shall not be less than \$100 in any municipality and shall not exceed in a city or town \$500 and in a township or village \$300. Fees

- (e) The fee to be paid for the licence by a farmer, resident in Ontario, who offers for sale only the produce of his own farm shall not exceed \$5. Resident fee

- (f) The sum paid for a licence shall be credited to the person paying it, or to any *bona fide* purchaser of the business who carries on the business, on account of taxes payable in respect of the business, and in respect of real property taxes on the land used for the purposes of or in connection with the business if the land is owned by the person carrying on the business, during the year in which the licence was issued and five years thereafter. Credit of fees on taxes

- (g) Every transient trader who carries on business without a licence is guilty of an offence and on summary conviction is liable to a fine equal to the licence fee that he should have paid and in addition thereto the sum of not less than \$10 and not more than \$200. Offence

- (h) Every transient trader shall cause his licence to be prominently and permanently displayed in his place of business during the full term in which he is carrying on business as a transient trader and in default thereof is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$10. Licence to be displayed

- (i) Every applicant for a transient trader's licence shall as part of his application for such licence furnish a statement in writing containing a full description of the goods, wares or merchandise that he proposes to sell or offer for sale under such licence. R.S.O. 1960, c. 249, s. 401, pars. 16, 17. Application for licence to contain certain information

By-laws for
licensing
chimney-
repair men
etc.

18. For licensing, regulating and governing chimney-repair men and persons engaging in the business of altering, repairing or renovating buildings or structures, or constructing radiation fallout shelters, and for refusing a licence to any applicant who is not of good character or who has not in the municipality a place of business where he is assessed for business tax with respect to such business, and for revoking such licence.

- (a) No by-law passed under this paragraph applies to a building contractor whose principal business is the construction of buildings or structures.
- (b) The fee to be paid for a licence shall not exceed \$10. 1964, c. 68, s. 12, *amended*.

Special
sales

384.—(1) In this section, “special sale” means any sale or intended sale at retail described by the use of any of the following words or expressions, or any enlargement, contraction or combination thereof:

bankrupt	moving out	fire
insolvent	selling out	smoke
trustee	lease expiring	water damage
receiver	closing out	creditor
liquidation	discontinuing	forced

or any other similar word or words that represent, hold out or advertise that any goods, wares or merchandise are to be disposed of in a manner that is not in the ordinary course of retail business. 1968, c. 76, s. 23, *part*.

Licensing
and
regulating
special sales

(2) By-laws may be passed by the councils of towns, townships and villages and of cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000,

- (a) for licensing and regulating special sales of goods and persons conducting such sales, and for prohibiting special sales of goods without a licence;
- (b) prescribing the conditions on which licences may be issued and revoked, and providing for the revocation of such licences;
- (c) fixing a fee for such licences; and
- (d) for appointing inspectors and providing for the inspection of such goods. 1968, c. 76, s. 23, *part*; 1968-69, c. 74, s. 25 (1).

Application

(3) A by-law under this section does not apply to a sale by or under the authority of,

R.S.C. 1952,
cc. 14, 296

- (a) a receiver or trustee under the *Bankruptcy Act* (Canada) or a liquidator under the *Winding-up Act* (Canada);

- (b) a court or receiver appointed by the court;
- (c) a bailiff, sheriff, executor or administrator; or
- (d) a receiver, liquidator or trustee under any general or special Act. 1968, c. 76, s. 23, *part*.

(4) A special sale shall be deemed to be a business for the purposes of this Act and any other Act that contains provisions with respect to the licensing, revoking of a licence, regulating, governing, prohibiting or limiting of any business or the person carrying on or engaged in it. 1968-69, c. 74, s. 25 (2).

Special sale
deemed
business

385. By-laws may be passed by the councils of towns and villages and boards of commissioners of police of cities:

1. For regulating or prohibiting the playing of bands and of musical instruments in any highway, park or public place except by a military band attached to any regular corps of the militia of Canada when on duty, under the command of its regular officer.

Bands of
music

2. For licensing, regulating and governing persons who for hire or gain purchase or deal in old gold and other precious metals and in old jewellery or other articles for the purpose of smelting the same and recovering the gold therefrom, and for revoking any such licence.

Licensing of
dealers in
old gold, etc.

- (a) The fee to be paid for a licence shall not exceed \$25 per year.

3. For prohibiting keepers of second-hand goods shops or salvage stores or shops directly or indirectly purchasing from, exchanging with, or receiving in pledge, from any minor appearing to be under the age of eighteen years, without written authority from a parent or guardian of such minor, any metals, goods or articles. R.S.O. 1960, c. 249, s. 402.

Salvage
shops
buying from
minors

386. By-laws may be passed by boards of commissioners of police of cities and, in respect of paragraph 3, by the councils of towns, villages and townships:

R.S.O. 1960, c. 249, s. 403, *part*; 1960-61, c. 59, s. 21.

1. For regulating and controlling children engaged as express or dispatch messengers, vendors of smallwares and bootblacks.

Occupations
of children

2. For regulating the hours of labour of persons employed in livery or boarding stables as drivers of motor vehicles, cabs, carriages or sleighs kept for hire, or by the owners of horses, carts, trucks, omnibuses and other vehicles kept for hire.

Regulating
hours of
labour of
persons
employed
in livery
stables, etc.

3. For regulating parades or processions on highways and, from time to time and as occasion may require, prescribing the routes of travel to be observed by all vehicles, horses and persons upon the highways, and preventing the obstruction of the

Regulating
traffic and
parades

highways during public processions or public demonstrations, and for giving directions to constables for keeping order, and preventing any collision or obstruction of traffic at the intersections or other frequented portions of the highways, on all occasions when the highways are thronged or liable to obstruction.

- (a) This paragraph does not affect the right, if any, of a street railway company to regulate the routes of its cars and no regulation or direction that may affect a street railway company shall be made or given until the company has been afforded an opportunity of being heard. R.S.O. 1960, c. 249, s. 403, *part*, pars. 1-3.

County council to make provision for destitute mental defectives, etc. R.S.O. 1970, c. 270

387. The council of every county shall make provision for the whole or partial support within the county of such mentally ill, mentally defective or epileptic destitute persons as cannot be admitted to an institution within the meaning of *The Mental Hospitals Act*, and shall determine the sums to be paid for such support and the persons to whom the same shall be paid. R.S.O. 1960, c. 249, s. 404.

Daily remuneration of councillors

388.—(1) The council of a municipality may pass by-laws for paying the members of council for attendance at meetings of council or of its committees such *per diem* rate as the council may determine. 1968, c. 76, s. 24 (1).

Where member receives salary

(2) Where a member of a council is paid remuneration under section 205, 211 or 389, such member is not entitled to payment under this section for attendance at meetings. R.S.O. 1960, c. 249, s. 405 (2).

Mileage allowance

(3) In the case of a council of a county or a township, the by-law may provide for the payment of such amount as is determined by council for each mile necessarily travelled in attending such meetings. R.S.O. 1960, c. 249, s. 405 (3); 1968-69, c. 74, s. 26.

Fees to head of council on public utility commission

(4) The head of the council of a municipality may be paid for his services as a member of any public utility commission the same *per diem* rate as is determined by the council under subsection 1. 1968, c. 76, s. 24 (2).

Annual allowance of councillors,

389.—(1) The council of a municipality may pass by-laws for paying the members of council such annual allowance as council may determine.

chairmen

(2) The council of a municipality may pass by-laws for paying, in addition to the allowance paid under subsection 1, such annual allowance as council may determine to each chairman of a standing committee and to the chairman of the court of revision and of the local board of health. 1968, c. 76, s. 25.

390. The council of a municipality may pass by-laws for providing by contract with an insurer licensed under *The Insurance Act*,

Accident, etc., insurance re members of council
R.S.O. 1970, c. 224

- (a) group accident insurance to indemnify any member of council or his estate against loss in case he is accidentally killed or injured; and
- (b) group public liability and property damage insurance to indemnify any member of council or his estate in respect of loss or damage for which he has become liable by reason of injury to persons or property or in respect of loss or damage suffered by him by reason of injury to his own property,

while travelling on the business of the corporation or in the performance of his duties as a member of council either within or outside the municipality. 1967, c. 55, s. 18.

391. A local board, as defined in *The Department of Municipal Affairs Act*, of a municipality, except school, planning and library boards, may provide for the payment of such salary, expenses or allowances for the members thereof as may be approved by the council of the municipality or, where more than one municipality is concerned, by the council designated by the Department. 1960-61, c. 59, s. 22; 1961-62, c. 86, s. 46.

Annual salary for members of local boards
R.S.O. 1970, c. 118

392. Notwithstanding the other provisions of this Act or any other general or special Act, where an elected member of a council of a municipality or a local board, as defined in *The Department of Municipal Affairs Act*, is, under a by-law or resolution of the council or such local board, paid a salary, indemnity, allowance or other remuneration, one-third of such amount shall be deemed to be for expenses incident to the discharge of his duties as a member of the council or such local board. R.S.O. 1960, c. 249, s. 408; 1966, c. 93, s. 29.

Expense allowance

393. A member of the council of a village or township having a population of 3,000 or less may be appointed commissioner, superintendent or overseer of any work, other than a highway, undertaken wholly or in part at the expense of the corporation, and may be paid the like remuneration for his services as if he were not a member of the council. 1967, c. 55, s. 19.

Appointment of member of council as commissioner, etc.

394. The council of any municipality may pay for or towards,

- (a) the reception or entertainment of persons of distinction or the celebration of events or matters of national or international interest or importance; and

Expenses for entertaining guests and for travelling on civic business

(b) the travelling and other expenses of the members of council and of the officers and servants of the municipality while travelling outside the municipality in their capacity as councillors, officers or servants a sum not exceeding in any one year,

(i) in the case of a local municipality having a population of,

not less than 500,000.....	\$50,000
not less than 200,000.....	30,000
not less than 100,000.....	20,000
not less than 50,000.....	10,000
not less than 30,000.....	5,000
not less than 20,000.....	3,000
not less than 10,000.....	2,000
less than 10,000.....	1,000

(ii) in the case of a county..... 5,000

and such sums do not include expenditures made under paragraphs 10, 11, 13, 14 and 15 of section 352 or expenditures for travelling and other expenses of the officers and servants of the municipality while travelling on normal business of the municipality within or outside the municipality, but do include expenses of members of council and of officers and servants of the municipality for attending other conventions and receptions. R.S.O. 1960, c. 249, s. 410; 1961-62, c. 86, s. 47; 1966, c. 93, s. 30 (1).

Industries
department
and commis-
sioner

395.—(1) The council of a municipality having a population of not less than 5,000 may pass by-laws for the establishment and maintenance of a department of industries and for appointing a commissioner of industries to bring to the notice of manufacturers and others the advantages of the municipality as an industrial, business, educational, residential or vacation centre. R.S.O. 1960, c. 249, s. 411 (1).

Expenditure
for publicity

(2) The council of a municipality may, by a vote of three-fourths of all the members of the council present and voting or, in the case of a county, by a vote of three-fourths of the voting strength of the council, expend in any year such sum as it may determine for the purpose of paying any expenses of its department and commissioner of industries, if any, and for the purpose of diffusing information respecting the advantages of the municipality as an industrial, agricultural, business, educational, residential or vacation centre. 1964, c. 68, s. 13, *part*; 1966, c. 93, s. 31; 1968, c. 76, s. 26; 1968-69, c. 74, s. 27.

Pooling of
funds

(3) Any two or more municipalities may pool their funds and act jointly for the purposes of this section. 1964, c. 68, s. 13, *part*.

PART XX

HIGHWAYS AND BRIDGES

396.—(1) In this Part, “county bridge” means a bridge under the exclusive jurisdiction of the council of a county. Interpretation

(2) Except as provided by section 411, this Part does not apply to a Provincial road or bridge under the control of the Crown. R.S.O. 1960, c. 249, s. 412. Exception

397. Where power is conferred by this Part upon a council to pass by-laws for acquiring or for assuming a highway, it includes the power to pass by-laws for acquiring or for assuming part of a highway. R.S.O. 1960, c. 249, s. 413. Power to acquire part of highway

398. Where power to pass by-laws in respect of a highway or bridge is conferred by this Act on a council, unless otherwise expressly provided it is exercisable only by the council having jurisdiction over the highway or bridge or, if the highway or bridge is under the joint jurisdiction of two or more councils, only by the joint action of such councils, and a by-law by all of them is necessary for the exercise of such power. R.S.O. 1960, c. 249, s. 414. What councils to exercise powers re highways and bridges

399. Except in so far as they have been stopped up according to law, all allowances for roads made by the Crown surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has been expended for opening them or on which statute labour has been usually performed, all roads passing through Indian lands, all roads dedicated by the owner of the land to public use, and all alterations and deviations of and all bridges over any such allowance for road, highway or road, are common and public highways. R.S.O. 1960, c. 249, s. 415. What constitutes public highways

400.—(1) Unless otherwise expressly provided, the soil and freehold of every highway is vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under this or any other Act. Highways vested in corporation having jurisdiction over them

(2) In the case of a dedicated highway, such vesting is subject to any rights in the soil reserved by the person who laid out or dedicated the highway. R.S.O. 1960, c. 249, s. 416. Reservation of rights in soil

401. Except where jurisdiction over them is expressly conferred upon another council, the council of every municipality has jurisdiction over all highways and bridges within the municipality. R.S.O. 1960, c. 249, s. 417. Jurisdiction of councils over highways

Exception
as to road
owned by
company,
etc.

Jurisdiction
of county
councils over
roads and
bridges

402. Sections 400 and 401 do not apply to roads or bridges owned by companies or individuals. R.S.O. 1960, c. 249, s. 418.

403.—(1) The council of a county has jurisdiction over,

- (a) every highway, bridge and boundary line assumed by the council;
- (b) every bridge crossing a river, stream, pond or lake forming or crossing a boundary line between local municipalities, other than a city or separated town in the county;
- (c) every bridge crossing a river or stream over 100 feet in width within the limits of a village in the county where the bridge forms part of a main highway leading through the county.

Power to
limit juris-
diction

(2) The council may provide that the jurisdiction conferred upon it by clause *b* of subsection 1 shall not extend to bridges over rivers, streams, ponds or lakes, less than 80 feet in width or of such width less than 80 feet as may be specified in the by-law. R.S.O. 1960, c. 249, s. 419.

Jurisdiction
over bridges
on county
boundaries

404. The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between counties have joint jurisdiction over such bridges. R.S.O. 1960, c. 249, s. 420.

Jurisdiction
over bridges
on bound-
aries
between
county and
city, etc.

405. The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between a county and a city or separated town have joint jurisdiction over such bridges. R.S.O. 1960, c. 249, s. 421.

Jurisdiction
over bound-
aries
between
local muni-
cipalities

406. The councils of the local municipalities between which they run have joint jurisdiction over all boundary lines, whether or not they form also county boundary lines, which have not been assumed by the council of the county, and over the bridges on them except such bridges crossing rivers, streams, ponds or lakes forming or crossing such boundary lines as by this Act are under the jurisdiction of another council or other councils. R.S.O. 1960, c. 249, s. 422.

Jurisdiction
where corpo-
ration owns
bridge, etc.,
in another
municipality

407. Where a boulevard, drive or highway or a public avenue or walk is owned or has been opened and laid out or is under the authority of this Act assumed, or a bridge is owned or has been constructed or is under the authority of this Act assumed by the corporation of a municipality other than that in which it is situate, the council of that corporation has jurisdiction over it. R.S.O. 1960, c. 249, s. 423.

408.—(1) The council of a village may pass by-laws for the assumption by the corporation of the village, with the consent of and on such terms and conditions as may be agreed on with the council of the county, of any bridge within the limits of the village and under the jurisdiction of the council of the county.

Assumption
by villages
of bridges
under
control of
county

(2) When the by-law takes effect, the bridge ceases to be under the jurisdiction of the council of the county and comes and thereafter remains under the jurisdiction of the council of the village, and is and shall remain toll free. R.S.O. 1960, c. 249, s. 424.

Effect of
by-law

409. The council having jurisdiction over a bridge has jurisdiction over the approaches to it for 100 feet next adjoining each end of the bridge. R.S.O. 1960, c. 249, s. 425.

Approaches
to bridges

410.—(1) The corporations of adjoining municipalities may enter into an agreement for the maintenance and repair of any highway forming the boundary between such municipalities, including the bridges thereon that it is their duty to maintain and repair, whereby each of them may undertake, for a term of years not to exceed ten years, to maintain and keep in repair any portion of such highway for its whole width, and to indemnify and save harmless the other from any loss or damage arising from the want of repair of such portion. R.S.O. 1960, c. 249, s. 426 (1).

Agreements
between
adjoining
municipali-
ties as to
maintenance
of boundary
road

(2) A copy of any agreement made under subsection 1, together with a copy of the by-laws of each of the municipalities authorizing the execution of the agreement, shall be registered in the registry office of the registry division in which the highway is situate. 1961-62, c. 86, s. 48 (1).

Copy of
agreement
and by-laws
to be
registered

(3) After the registration of the agreement and by-laws, each corporation has jurisdiction over that portion of the road that it has undertaken to maintain and keep in repair, and is liable for the damages incurred by reason of neglect to maintain and keep the same in repair, and the other corporation is relieved from all liability in respect of its maintenance and repair. R.S.O. 1960, c. 249, s. 426 (3); 1961-62, c. 86, s. 48 (2).

Effect

411. The Lieutenant Governor in Council by proclamation may declare that any public road or bridge under the control of the Minister of Highways shall not be under his control after a day named in the proclamation, and such road or bridge after that day ceases to be under the control of the Minister, and no tolls shall be collected thereon and the road or bridge is under the jurisdiction of the council of the local municipality in which it is situate, or if it is partly situate in two or more municipalities is under the jurisdiction of the councils of such municipalities, each having jurisdiction over the part that lies within its municipality,

Proclama-
tion bringing
government
road or
bridge under
jurisdiction
of municipi-
pality

or if it lies between two or more municipalities is under the joint jurisdiction of their councils. R.S.O. 1960, c. 249, s. 427, *amended*.

Assumption
by county
councils of
highways,
bridges and
boundary
lines

412.—(1) The council of a county may by by-law assume as a county road any highway, or as a county bridge any bridge, within a town, not being a separated town, or within a village or township.

Assent

(2) The by-law does not take effect until assented to by the council of the town, village or township.

County or
township
boundary

(3) The council of a county may also by by-law assume as a county road any county or township boundary line.

Connecting
road in town

(4) The council of a county may also by by-law assume as a county road any highway in a town, not being a separated town, or in a village or township that connects with a county road.

Bridges on
such high-
way

(5) Where a highway is assumed under this section, the bridges thereon shall also be assumed as county bridges.

Repeal of
by-law

(6) A by-law passed under this section may be at any time repealed by the council of the county.

Effect of
repeal

(7) After the repeal of the by-law, such highway or bridge ceases to be under the jurisdiction of the council of the county and falls and is under the jurisdiction of the council or councils that had jurisdiction over it at the time of the passing of the by-law for assuming it.

Grants in aid

(8) Where a county assumes a highway or bridge under this section, the town, village or township within which the highway or bridge is situate may make grants to the county in aid of the maintenance or reconstruction thereof and the maintenance of the reconstructed highway or bridge or, where the highway or bridge is relocated, in aid of the construction and maintenance of the relocated highway or bridge. R.S.O. 1960, c. 249, s. 428.

Assuming
highway in
adjacent
municipality
as a public
avenue or
walk

413.—(1) The council of a city or town may pass by-laws for assuming for the purpose of a public avenue or walk any highway in an adjacent local municipality and for acquiring so much land on either side of such highway as may be required to increase its width to not more than 100 feet.

Assent of
other
council

(2) The by-law does not take effect until it is assented to by by-law of the council of the adjacent municipality. R.S.O. 1960, c. 249, s. 429.

Abandon-
ment by
county of
roads

414.—(1) The council of a county may by by-law abandon the whole or any part of a toll road owned by the corporation of the county or of any other road owned by it, whether the road is

situate wholly within the county or partly within it and partly within an adjoining county.

(2) Forthwith after the passing of the by-law, the clerk shall transmit by registered mail to the clerk of every local municipality through or along or on the border of which the road runs a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Clerk to
transmit
copies of
by-law

(3) The by-law does not take effect until it is approved by the Municipal Board, nor does it take effect as to the part of the road lying within or along or on the border of a local municipality whose council does not by by-law assent to the by-law.

Approval of
Municipal
Board

(4) From and after the taking effect of the by-law, the council of a municipality within which any part of the road so abandoned lies has jurisdiction over that part of it that lies within the municipality and, where any part of a road so abandoned lies between or on the border of two or more local municipalities, the councils of such municipalities have joint jurisdiction over that part of it.

Jurisdiction
after abandon-
ment

(5) Nothing in this section extends or applies to a bridge that under this Act is to be maintained wholly or partly by the corporation of the county. R.S.O. 1960, c. 249, s. 430.

Exception

415.—(1) A bridge of a greater length than 300 feet in a town having an equalized assessment of less than \$1,000,000 or in a township may, on the application of the council of the town or township, be declared to be a county bridge where,

Bridges over
300 ft. in
length in
townships
and certain
towns may
be declared
county
bridges

- (a) it is used by the inhabitants of other municipalities;
- (b) it is situate on an important highway affording means of communication to several municipalities; and
- (c) on account of its length and for the reasons mentioned in clauses *a* and *b*, it is unjust that the burden of maintaining and repairing it should rest upon the corporation of the town or township.

(2) An order declaring the bridge to be a county bridge may be made by a judge of the county court of the county in which it is situate, on the application of the council of the town or township.

Order of
judge

(3) Notice of the application shall be served on the corporation of the county at least thirty days before the day on which it is to be made.

Notice of
application

(4) Each corporation is entitled to be represented by counsel on the hearing of the application, and the evidence may, if the judge sees fit, and shall, if either party so requests, be given under oath.

Hearing

Power of
judge

(5) If the judge is of opinion that for the reasons mentioned in subsection 1 the bridge should be declared to be a county bridge, he shall by his order so declare, and in that case he shall determine whether the expense of maintaining and repairing the bridge shall be borne by the corporation of the county or partly by it and partly by the corporation of the town or township and, if he determines that it should be borne partly by each, he shall fix the proportions in which the expense is to be so borne, and his declaration and determination shall be embodied in the order.

Registration
of order

(6) If the order declares the bridge to be a county bridge, it shall be registered in the registry office of the registry division in which the bridge is situate.

Appeal

(7) An appeal lies from the order of the judge to the Court of Appeal and the proceedings upon and incidental to the appeal shall be the same as in the case of an appeal from a judge of the Supreme Court sitting in court.

Registration
of order of
Court
of Appeal

(8) If the order is reversed or varied by the order of the Court of Appeal or if an order declaring the bridge to be a county bridge is made by the Court of Appeal, the order of that court shall be registered as provided by subsection 6.

Effect of
order after
registration

(9) Where the order of the judge of the county court declares the bridge to be a county bridge, except where it is reversed, and subject to any variation of it on appeal, from and after the registration of the order, or, where the order has been reversed and an order declaring the bridge to be a county bridge has been made by the Court of Appeal, from and after the registration of the order of the Court of Appeal, the bridge is a county bridge.

Payment to
county of
proportion of
maintenance

(10) Whenever any expenditure is made by the corporation of the county in maintaining or repairing the bridge a proportion of which the corporation of the town or township is by the order required to bear, that proportion of the expenditure is payable by the last-named corporation to the corporation of the county on demand.

When new
application
may be made

(11) Where the application is dismissed, either by the order of the judge of the county court or by the order of the Court of Appeal, a new application shall not be made until five years have elapsed from the date of the order, and any new application thereafter made may be dealt with without regard to the former order, and subsections 1 to 10 apply *mutatis mutandis* to the application.

Approaches,
when to
form part
of bridge

(12) In the case of a bridge crossing a river, stream, pond or lake, the approaches to the bridge, whether consisting of embankments or other artificial works to the extent to which they are rendered necessary on account of the waters of the river, stream, pond or lake overflowing the highway on one or on both sides of the river, stream, pond or lake in times of freshets or at any other

time, shall be deemed for the purpose of this section to form part of the bridge.

(13) This section also applies to a bridge that it is proposed to construct, including a bridge to replace an existing one and a bridge to replace one that has been carried away or destroyed or so damaged that it is necessary to rebuild it, and the application may be made before the work of construction is begun.

Application of section to construction and renewal of bridge

(14) In the case of an application to which subsection 13 applies, it is the duty of the judge to consider and determine whether a bridge of the length of that which it is proposed to erect is necessary for the purpose for which it is to be erected and, if he is of opinion that a bridge of 300 feet or less will be sufficient for that purpose, it is the duty of the judge so to determine and to refuse to make an order under this section.

Determination by judge as to length of bridge required

(15) In the case provided for by this section, the council of the town or township and the council of the county may at any time enter into an agreement as to the proportions in which the cost of maintaining the bridge and keeping it in repair shall be borne by their respective corporations, or in a case to which subsection 13 applies as to the proportions in which the cost of constructing and maintaining the bridge and keeping it in repair shall be borne by their respective corporations.

Power to agree as to maintenance

(16) The agreement shall provide that the bridge shall thereafter or after a day to be named under the exclusive jurisdiction of the council of the county or remain under the jurisdiction of the council of the town or township.

What agreement to provide

(17) The terms of the agreement shall be embodied in an order of the judge of the county court which may be made upon the application of either corporation, and the order so made supercedes any former order made by him.

Order of judge embodying agreement

(18) If the agreement provides that the bridge is to come under the exclusive jurisdiction of the council of the county, the order made under subsection 17 shall so declare.

Idem

(19) The order made under subsection 17 shall be registered as provided by subsection 6 and has the same effect as an order upon an application made under subsection 2, but the order is not subject to appeal. R.S.O. 1960, c. 249, s. 431.

Registration of order

416. The council of a county which assumes, as a county road or bridge, any highway or bridge within a township shall with as little delay as reasonably may be and at the expense of the county cause the highway to be graded and drained and gravelled, macadamized, or surfaced or paved with other permanent material, or the bridge to be built in a good and substantial manner, and

Highways assumed by county to be gravelled, etc.

shall maintain and keep the same in repair. R.S.O. 1960, c. 249, s. 432.

County to
build and
maintain
certain
bridges

417. The council of the county shall cause to be built and maintained at the expense of the corporation of the county the bridges mentioned in clauses *b* and *c* of subsection 1 of section 403. R.S.O. 1960, c. 249, s. 433.

Maintenance
of bridges
on county
boundary
lines

418.—(1) Where a river, stream, pond or lake forms or crosses a boundary line between two or more counties, it is the duty of the corporations of the counties and, where it forms or crosses a boundary line between a county and a city or a separated town, it is the duty of the corporations of the county and the city or separated town to erect and maintain bridges over such river, stream, pond or lake.

By-law
restricting
duty

(2) The council of a county may by by-law provide that the duty imposed upon the corporation by subsection 1 shall not extend to bridges over rivers, streams, ponds or lakes less than twenty feet in width. R.S.O. 1960, c. 249, s. 434.

Maintenance
of boundary
lines

419.—(1) Boundary lines between local municipalities, including those that also form county boundary lines, shall be maintained by the corporations of such municipalities, and they shall also erect and maintain all necessary bridges on such boundary lines.

Exceptions

(2) Subsection 1 does not apply to boundary lines assumed by the council of the county or to such bridges as are under this Act to be erected or maintained by another corporation. R.S.O. 1960, c. 249, s. 435.

Local
municipalities to
erect and
maintain
certain
bridges

420. Where the council of a county passes a by-law under subsection 2 of section 403 or subsection 2 of section 418, it is the duty of the councils of the local municipalities to erect and maintain all necessary bridges from the erection and maintenance of which the council of the county is relieved by the by-law. R.S.O. 1960, c. 249, s. 436.

Maintenance
of boundary
lines and
bridges in
provisional
judicial
district

421. All boundary lines, and all bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between two or more local municipalities in a provisional judicial district, shall be erected and maintained by the corporations of such municipalities and their councils have joint jurisdiction over them and, if the councils fail to agree as to the proportion of the expense to be borne by each corporation, the same shall be determined by arbitration. R.S.O. 1960, c. 249, s. 437.

Notice of
excavating
to owner of
utility works

422. Where digging, trenching or excavating with mechanical equipment upon a highway by a municipality or any person

entitled so to do may interfere with a gas pipe line, telephone line, works for the distribution and supply of electrical power, water mains or sewers, the municipality shall, except in an emergency or unless otherwise agreed between the municipality and the owner of such works, at least twenty-four hours before the work is to be commenced, notify the owner of the works that such digging, trenching or excavating is to be done. R.S.O. 1960, c. 249, s. 438.

423.—(1) Where a river or stream forms a boundary line between two or more municipalities in a county, the corporation of the county shall keep it free from all accumulations of driftwood or fallen timber. Keeping rivers free from drift-wood, etc.

(2) Where the river or stream forms a boundary line between two or more counties, the duty mentioned in subsection 1 shall be performed by the corporations of the counties and, where the river or stream forms the boundary line between a county and a city or separated town, shall be performed by the corporation of the county and the corporation of the city or separated town, and, in case of failure to agree in either case as to the share or proportion of the expense incurred in performing the duty to be borne by them respectively, the same shall be determined by arbitration. R.S.O. 1960, c. 249, s. 439. What corporations to perform the work and apportionment of expense

424.—(1) Where a stream or creek is cleared of all logs, brush or other obstructions to the boundary line between a township and an adjoining township into which the stream or creek flows, the council of the township in which the stream or creek has been so cleared may give notice in writing to the corporation of such adjoining township requesting its council to clear such stream or creek through the municipality. Keeping stream free from logs, brush, etc., in township

(2) It is the duty of such last-mentioned corporation, within six months after the service of the notice, to enforce the removal of all obstructions in such stream or creek within the municipality to the satisfaction of any person whom the council of the county in which the municipality whose council gave the notice is situate appoints to inspect the same. Other township to remove obstructions

(3) If the corporation receiving the notice neglects to perform such duty and by reason of its neglect any highway or bridge in either of the townships becomes out of repair, the corporation in default, and that corporation only, is responsible for the damages sustained by any person by reason of such want of repair. R.S.O. 1960, c. 249, s. 440. Effect of failure to perform duty

425. Where, on account of physical difficulties or obstructions existing on a boundary line between municipalities and in order to obtain a better line of road, a road has been heretofore or is hereafter laid out and opened that does not follow the course of Deviations of boundary lines

such boundary line throughout, but in some place or places so deviates from it as to lie wholly within one of the municipalities, such road shall nevertheless be deemed to be, for the purposes of this Act, the boundary line between the municipalities, and a river, stream, pond or lake that crosses it where it so deviates shall be deemed to be a river, stream, pond or lake crossing a boundary line within the meaning of this Act. R.S.O. 1960, c. 249, s. 441.

Specifica-
tions for
certain
bridges

426.—(1) Every iron, steel, concrete or stone bridge constructed by the corporation of a county, and every such bridge exceeding twenty feet clear span constructed by the corporation of a township, shall be designed and built in accordance with general specifications approved by the Department of Highways.

Duplicate
plans to be
submitted

(2) Plans in duplicate for any such bridges may be submitted by the council of any county or township to the Department of Highways and, if they are found to be in accordance with such approved general specifications, the certificate of the Department shall be attached, and one of the plans shall be returned to the clerk of the county or township. R.S.O. 1960, c. 249, s. 442.

Liability for
repair of
public roads,
etc.

R.S.O. 1970,
c. 296

427.—(1) Every highway and every bridge shall be kept in repair by the corporation the council of which has jurisdiction over it or upon which the duty of repairing it is imposed by this Act and, in case of default, the corporation, subject to *The Negligence Act*, is liable for all damages sustained by any person by reason of such default.

Limitation
of actions

(2) No action shall be brought against a corporation for the recovery of damages occasioned by such default, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time when the damages were sustained.

Insufficiency
of fences,
etc.

(3) No action shall be brought against a corporation for the recovery of damages caused by the presence or absence or insufficiency of any wall, fence, guard rail, railing or barrier, or caused by or on account of any construction, obstruction or erection or any situation, arrangement, or disposition of any earth, rock, tree or other material or object adjacent to or in, along or upon any highway or any part thereof not within the travelled portion of such highway.

Snow or
ice on
sidewalks

(4) Except in case of gross negligence, a corporation is not liable for a personal injury caused by snow or ice upon a sidewalk.

Notice of
action

(5) No action shall be brought for the recovery of the damages mentioned in subsection 1 unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered mail to the head or the clerk of the corporation, in the case of a county or township within ten days, and in the case of an

urban municipality within seven days, after the happening of the injury, nor unless, where the claim is against two or more corporations jointly liable for the repair of the highway or bridge, the prescribed notice was given to each of them within the prescribed time.

(6) In the case of the death of the person injured, failure to give notice is not a bar to the action and, except where the injury was caused by snow or ice upon a sidewalk, failure to give or insufficiency of the notice is not a bar to the action, if the court or judge before whom the action is tried is of the opinion that the corporation in its defence was not prejudiced by the want or insufficiency of the notice and that to bar the action would be an injustice, notwithstanding that reasonable excuse for the want or insufficiency of the notice is not established.

When failure to give notice of claim is not a bar to action

(7) This section does not apply to a road, street or highway laid out or to a bridge built by a private person or by a body corporate until it is established by by-law of the council or otherwise assumed for public use by the corporation.

To what roads applicable

(8) Nothing in this section imposes upon a corporation any obligation or liability in respect of any act or omission of any person acting in the exercise of any power or authority conferred upon him by law, and over which the corporation had no control, unless the corporation was a party to the act or omission, or the authority under which such person acted was a by-law, resolution or licence of its council.

When corporation not responsible for acts of others

(9) A corporation is not liable for damages under this section unless the person claiming the damages has suffered by reason of the default of the corporation a particular loss or damage beyond what is suffered by him in common with all other persons affected by the want of repair.

When corporation not liable for damages

(10) Where a bridge that it is the duty of a corporation to repair is destroyed or so damaged that it is necessary to rebuild it, the Municipal Board may, upon the application of the corporation, relieve it from the obligation to rebuild the bridge, if the Board is satisfied that it is no longer required for the public convenience or that the rebuilding of it would entail a larger expenditure than would be reasonable having regard to the use that would be made of the bridge if it were rebuilt.

Relief from obligation to rebuild

(11) The relief may be granted on such terms and conditions as the Board considers just, and such notice of the application shall be given as the Board may direct.

Conditions of granting relief

(12) Subsections 10 and 11 do not affect the costs of any pending action. R.S.O. 1960, c. 249, s. 443.

Costs of pending actions

Action for
damages for
nuisance on
highway

428. The provisions of subsections 2 to 9 of section 427 apply to an action brought against a corporation for damages occasioned by the presence of any nuisance on a highway. R.S.O. 1960, c. 249, s. 444.

Snow
removal

429. Where a municipal corporation clears or attempts to clear snow from an unopened road allowance, private road or private lane by means of a snow plough or otherwise, no liability attaches to the corporation in so doing. R.S.O. 1960, c. 249, s. 445.

Registration
of plan not
to create
highway
repair
liability
R.S.O. 1970,
c. 349

430. The approval of a plan of subdivision under *The Planning Act* and the registration thereof shall not be deemed to be an assumption by the corporation of the municipality wherein the land comprised in the plan is situate of any highways shown on the plan so as to render the corporation liable for repair or for damages resulting from non-repair within the meaning of section 427. R.S.O. 1960, c. 249, s. 446.

Issue of
debentures
for refloor-
ing bridge

431. The corporation of a city or town in which an iron, steel or concrete bridge is constructed may pass a by-law authorizing the issue of and may issue debentures to pay the cost of reflooring the bridge, for any term not exceeding ten years and at such rate of interest as the council may determine, provided that such by-law is passed by a vote of two-thirds of all the members of the council and is approved by the Municipal Board. R.S.O. 1960, c. 249, s. 447.

Apportion-
ment of
damages

432.—(1) Where two or more corporations are jointly liable for keeping in repair a highway or bridge, there shall be contribution between them as to the damages sustained by any person by reason of their default in so doing.

Action to
be against
all cor-
porations

(2) Any action by any such person shall be brought against all such corporations, and any of them may require that the proportions in which such damages and the costs of the action are to be borne by them shall be determined in the action.

What to be
taken into
account

(3) In settling such proportions, either in the action or otherwise, regard shall be had to the extent to which each corporation was responsible, either primarily or otherwise, for the act or omission by reason of which the damages became payable or are recoverable and the damages and costs shall be apportioned between them accordingly. R.S.O. 1960, c. 249, s. 448.

Members of
council and
employees
not liable
for non-
repair of
highways

433.—(1) Where an action may be brought against a corporation by a person who has sustained damages by reason of its default in keeping in repair a highway or bridge, no action shall be brought by him in respect of it or to recover such damages or any

part of them against any member of the council or officer or employee of the corporation personally, but the remedy therefor is against the corporation.

(2) A mere contractor with the corporation or an officer or employee who is such contractor, by reason of whose act or omission the damages were caused, shall not be deemed an employee within the meaning of subsection 1. R.S.O. 1960, c. 249, s. 449.

Contractors
not deemed
employees

434.—(1) Where an action is brought to recover damages sustained by reason of any obstruction, excavation or opening in or near a highway or bridge placed, made, left or maintained by any person other than the corporation or a servant or agent of the corporation, or by reason of any negligent or wrongful act or omission of any person other than the corporation or a servant or agent of the corporation, the corporation has a remedy over against such other person for and may enforce payment of the damages and costs that are recovered against the corporation.

Remedy
over for
damages
caused by
non-repair
against per-
sons causing
same

(2) The corporation is entitled to such remedy over in the same action if the other person is a party to the action and it is established in the action as against him that the damages were sustained by reason of an obstruction, excavation or opening so placed, made, left or maintained by him.

Remedy
over in
same action

(3) The corporation may in such action have the other person, if not already a defendant, added as a party defendant or third party for the purposes of the remedy over, and such person may defend the action as well against the plaintiff's claim as against the claim of the corporation.

Adding
party de-
fendant

(4) If such person is not a party defendant, or is not added as a party defendant or third party, or if the corporation has paid the damages before an action is brought to recover the same, or before a recovery thereof in an action against the corporation, the corporation has the remedy over, by action against such person, but he shall be deemed to admit the validity of the judgment obtained against the corporation only where a notice has been served on him, pursuant to rules of court, or where he has admitted or is estopped from denying the validity of such judgment.

Where per-
son causing
damage has
not been
made a party

(5) Where such notice has not been served, and there has been no such admission or estoppel, and such person has not been made a party defendant or third party to the action against the corporation, or where the damages have been paid without action, or without recovery of judgment against the corporation, the liability of the corporation for such damages, and the fact that the damages were sustained under such circumstances as to entitle

When a
fresh action
is necessary

the corporation to the remedy over, must be established in the action against such person to entitle the corporation to recover in the action. R.S.O. 1960, c. 249, s. 450.

Determina-
tion of dis-
putes as to
duty to erect
and main-
tain bridge
or repair
highway

435. When there is a dispute between the councils of any two or more corporations as to the corporation on which the obligation to build and maintain or to build or maintain a bridge or to keep in repair a highway rests, the Supreme Court may upon the application of any or either of the corporations determine the matter in dispute on an originating motion, or the court, if of opinion that the matter in dispute cannot satisfactorily be determined on an originating motion or that for any other reason it ought not to be so determined, may direct that an action may be brought or that an issue be tried for the purpose of determining the matter in dispute, and the court may in either case compel by mandamus the performance of the obligation by the corporation upon which it is found to rest. R.S.O. 1960, c. 249, s. 451.

Disputes as
to apportion-
ment of cost
of erecting or
maintaining

436. Except in the cases provided for by section 439, where the dispute is as to the proportions in which the corporations should contribute to the cost of erecting and maintaining or of erecting or maintaining a bridge or of keeping in repair a highway, the matter in dispute shall be determined by arbitration. R.S.O. 1960, c. 249, s. 452.

Laying out
highway
where no
original
allowance

437.—(1) Where an allowance for road was not reserved in the original survey on a township boundary or part of it, the councils of the townships may establish and lay out a highway on such boundary or part of it.

Passing
by law for

(2) The councils of any or either of the municipalities may pass a by-law for establishing and laying out such a highway and for acquiring the land requisite for the one-half of it that lies within the limits of its municipality.

Copy of
by-law to be
sent to other
townships

(3) The clerk shall within four days after the passing of the by-law transmit by registered mail to the clerk of each of the other townships a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Arbitration

(4) If the other council or councils do not within six months after such notice pass a by-law or by-laws in similar terms, the council by which the by-law was passed may require the question of establishing and laying out the proposed highway to be determined by arbitration.

Power of
arbitrator

(5) The arbitrator shall determine whether or not the proposed highway shall be established and laid out and, if he determines that it shall be established and laid out, he shall also determine in what proportions the cost of the site of it shall be borne by each of the corporations.

(6) If it is determined by the arbitrator that the proposed highway shall be established and laid out, the other councils shall forthwith after notice of the award pass the necessary by-laws for establishing and laying out the proposed highway and for acquiring the land requisite for the one-half of it that will lie within the limits of their respective municipalities, and for otherwise carrying out the award, and shall proceed with all reasonable dispatch to carry into effect the by-law.

Duties of other townships when arbitrator determines that highway should be laid out

(7) If it is determined by the arbitrator that the proposed highway shall not be established and laid out, no further proceedings shall be taken under this section within two years from the date of the award or within such time not exceeding in all four years, as the arbitrator may by his award determine. R.S.O. 1960, c. 249, s. 453.

Effect of determination against laying out highway

438.—(1) Where a highway or bridge is under the joint jurisdiction of the councils of two or more municipalities and they are unable to agree as to any action which one or more of them desire to be taken in the exercise of such joint jurisdiction, any of them may require that the matter in dispute shall be determined by arbitration, and in that case shall prepare a draft by-law for carrying into effect what it is desired shall be done, and serve a copy of it on the clerks of the other municipalities with a notice that it is its desire that such a by-law shall be passed.

Disputes as to bridge or highway to be settled by arbitration

(2) If it is determined by the arbitrator that what is proposed ought to be done, he shall by his award so direct, and in that case each council shall forthwith after notice of the award pass a by-law in accordance with the draft by-law and shall, without unnecessary delay, do all things that on its part are necessary for carrying into effect the objects of the by-law. R.S.O. 1960, c. 249, s. 454.

Award

439.—(1) Where the councils of the townships having joint jurisdiction over a township boundary line fail to agree as to the character of the work to be done in opening, maintaining or repairing it, or as to the proportions in which the cost of the work is to be borne by the corporations of the townships respectively, any or either of such councils may apply to the council of the county to determine the matters in dispute.

Determination by county council of disputes as to opening or maintaining township boundary lines

(2) Where the township councils having the joint jurisdiction over it neglect or refuse to open up and make, maintain and keep in repair any such boundary line, a majority of the ratepayers resident on land abutting on it may apply to the council of the county to enforce the opening up and the making, maintaining and keeping in repair of such boundary line.

Enforcement by county of opening up or repair on petition of ratepayers

(3) The application shall be by petition and the council of the county after notice to all the corporations interested and after

What matters to be determined by county council

hearing them and the petitioning ratepayers, if the petition is by ratepayers, or such of them as desire to be heard, shall determine in the case provided for by subsection 1 what work shall be done and the proportions in which the cost of it shall be borne by the corporations of the townships respectively and, in the case provided for by subsection 2, whether the boundary line shall be opened up and the proportions in which the corporations of the townships shall respectively bear the cost of opening up, making, maintaining and keeping in repair the boundary line, and in either case may direct that the statute labour or part of it shall be applied by each of the corporations for such purposes.

Appointment
of commis-
sioners to
enforce
order

(4) The determination and direction of the council of the county shall be embodied in an order or resolution, and the council shall appoint one or more commissioners to execute and enforce any direction so made.

Townships
to have
opportunity
of doing
the work

(5) If the councils of the townships intimate to the council of the county or to the commissioners their intention to proceed with the work directed to be done and to conform to the direction of the council of the county, the commissioners shall delay proceeding to carry out the work directed to be done for a reasonable time to enable the township councils to do it, but, if the work is not proceeded with with such dispatch as the commissioners consider necessary, they shall themselves complete the work.

Apportion-
ment of and
collection of
cost of work
of commis-
sioners

(6) The cost of any work done by the commissioners shall be by them apportioned between the corporations of the townships in accordance with the order or resolution of the council of the county, and the commissioners shall certify to the treasurer of the county the amount payable by each of such corporations, and the treasurer shall retain the same out of any money in his hands belonging to the corporation, but, if there is not in the hands of the treasurer any such money or not sufficient to pay the amount payable by the corporation, the amount payable or the amount of the deficiency, as the case may be, shall be added to the county rate payable by the corporation in default.

County
boundaries
not affected

(7) This section does not apply to a township boundary line that is also a county boundary line. R.S.O. 1960, c. 249, s. 455.

Determina-
tion by
Municipal
Board of
disputes re
deviation
of county
boundary
lines

440. Where the councils of the townships having joint jurisdiction over a county boundary line are unable to agree as to,

- (a) the necessity for a deviation of the road from the boundary line; or
- (b) the location of the deviation; or
- (c) the use of an existing highway in lieu of a deviation; or
- (d) the proportions in which the cost of opening, making and maintaining the deviation or the existing highway to be used in lieu of a deviation is to be borne,

any of the councils may apply to the Municipal Board to determine the matter in dispute, and the Board or any member of it, after notice to the corporations interested and hearing such of them as desire to be heard, shall determine the matter in dispute and may make any such order as may be deemed just, and such order is final and not subject to appeal. R.S.O. 1960, c. 249, s. 456.

441.—(1) The Ontario Motor League may, at its own expense and subject to such regulations as the council of the municipality may prescribe, erect and maintain guide posts at road intersections and mile posts on the highways to indicate distances and danger signals at hills that may be considered to be dangerous or unsafe for travellers.

Power of Ontario Motor League to erect guide and mile posts, etc.

(2) Every such guide post, mile post and danger signal shall be so placed as not to obstruct the highway or to endanger the safety of travellers, and nothing shall appear on or be affixed or attached to it but a notice indicating the purpose that the guide post, mile post or danger signal is designed to serve.

How same to be erected

(3) Every person who contravenes any of the provisions of subsection 2 is guilty of an offence and on summary conviction is liable to a fine of \$5.

Offence

(4) No person shall cut, throw down, injure or deface any such guide post, mile post or danger signal, and for every contravention of this subsection the person offending is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. R.S.O. 1960, c. 249, s. 457.

Defacing posts erected

442. The Canadian Wheelman's Association of the Dominion of Canada has the like power as is conferred on the Ontario Motor League by section 441, and all the provisions of that section apply to guide posts, mile posts and danger signals erected or maintained by the Association; but, where either the League or the Association has exercised the powers conferred upon it upon any part of a highway, the other does not have the right to exercise its powers thereon. R.S.O. 1960, c. 249, s. 458.

Powers of C.W.A. as to erection of guide posts, etc.

443.—(1) The council of every municipality may pass by-laws,

Establishing, widening, stopping up, etc., highways, laying out boulevards, etc.

- (a) for establishing and laying out highways;
- (b) for widening, altering or diverting any highway or part of a highway;
- (c) for stopping up any highway or part of a highway or for stopping up any highway or part of a highway for a specified period or periods of time;

- (d) for leasing or selling the soil and freehold of a stopped-up highway or part of a highway;
- (e) for setting apart and laying out such parts as may be considered expedient of any highway for the purpose of carriage ways, boulevards and sidewalks, and for beautifying the same, and making regulations for their protection;
- (f) for permitting subways for cattle under and bridges for cattle over any highway;
- (g) for acquiring land or an interest in land at street intersections for the purpose of rounding corners.
R.S.O. 1960, c. 249, s. 459 (1); 1965, c. 77, s. 32.

Exceptions
as to exercise
of power

(2) Nothing in subsection 1 authorizes a council to interfere with any public road or bridge vested in the Crown in right of Ontario or in any public department, board or officer of Ontario.

Approval of
Lieutenant
Governor to
by-law

(3) A by-law passed under clause *b* or *c* of subsection 1 in respect of an allowance for road reserved in the original survey,

- (a) along the bank of any river, stream or other water;
- (b) along or on the shore of any lake or other water;
- (c) leading to the bank of any river or stream; or
- (d) leading to the shore of any lake or other water,

does not take effect until it has been approved by the Lieutenant Governor in Council, and, where the by-law also requires approval of a judge or confirmation by a county council under subsection 6, it shall not be submitted to the Lieutenant Governor in Council until such approval or confirmation has been obtained.

Approval of
Governor
General
to by-law

(4) The powers conferred by subsection 1 shall not be exercised without the consent of the Governor General in Council in respect of,

- (a) any street, lane or thoroughfare made or laid out by Her Majesty's Ordinance or the Principal Secretary of State in whom the Ordinance estates became vested under the Act of the late Province of Canada passed in the 19th year of the reign of Her late Majesty Queen Victoria, Chapter 45, or under Chapter 24 of the Consolidated Statutes of Canada, or made or laid out by the Government of Canada;
- (b) any land owned by the Crown in right of Canada;
- (c) any bridge, wharf, dock, quay or other work vested in the Crown in right of Canada,

1856, c. 45
(Can.)

C.S.C. 1859,
c. 24

or so as to interfere with any land reserved for military purposes or with the integrity of the public defences, and the consent of the

Governor General in Council shall be recited in the by-law, but the by-law shall not be quashed or open to question because of the omission to recite it if the consent has been in fact given.

(5) The powers conferred by clause *c* of subsection 1 shall not be exercised by the council of a county in respect of a highway or part of a highway within the limits of a city, town or village in or adjoining the county. R.S.O. 1960, c. 249, s. 459 (2-5). Limitation
of power
of county

(6) A by-law of the council of a township passed under clause *c* of subsection 1, Approval
of judge
or county
council to
township
by-law

- (a) in the case of a township in unorganized territory, does not have any force until approved by a judge of the district court of the district in which the township is situated;
- (b) in the case of a township separated for municipal purposes from the county in which it is situated, does not have any force until approved by a judge of the county court of the county in which the township is situated; and
- (c) in the case of other townships, does not have any force until confirmed by a by-law of the council of the county in which the township is situated passed at an ordinary meeting of the council held not later than one year after the passing of the by-law by the council of the township. R.S.O. 1960, c. 249, s. 459 (6); 1968, c. 76, s. 27.

(7) The council may in any by-law closing a highway provide that the same shall only be closed for vehicular traffic and not for pedestrian traffic or *vice versa*, and may provide for the erection of barricades to enforce the due observance thereof. R.S.O. 1960, c. 249, s. 459 (7). Closing of
street to
vehicular
traffic only

(8) A by-law passed under clause *b* of subsection 1 in respect of altering or diverting any highway or part of a highway or under clause *c* of subsection 1 does not take effect in respect of any highway or part of a highway shown on a registered plan of subdivision registered after the 27th day of March, 1946, until it has been approved by the Minister. 1961-62, c. 86, s. 49. Approval of
Minister

(9) A by-law passed under subsection 1, or any predecessor of subsection 1, for closing any street, road or highway or for opening upon any private property any street, road or highway does not take effect until it has been registered in the registry office of the registry division in which the land is situate, and the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality. 1966, c. 93, s. 32. Registration
of by-laws

[NOTE—See *The Highway Improvement Act* (R.S.O. 1970, c. 201) as to consent of Lieutenant Governor to closing of highway connecting with the King's Highway.]

Right of
ingress and
egress not
to be taken
away by
closing road

444.—(1) A by-law shall not be passed for stopping up, altering or diverting any highway or part of a highway if the effect of the by-law will be to deprive any person of the means of ingress and egress to and from his land or place of residence over such highway or part of it unless such person consents to the passing of the by-law or unless in addition to making compensation to such person, as provided by this Act, another convenient road or way of access to his land or place of residence is provided.

By-law,
when to
take effect

(2) The by-law does not take effect until the sufficiency of such road or way of access has been agreed upon or until, if not agreed upon, its sufficiency has been determined by arbitration as hereinafter mentioned.

Arbitration
to determine
sufficiency
of road

(3) If such person disputes the sufficiency of the road or way of access provided, the sufficiency of it shall be determined by arbitration under this Act and, if the amount of compensation is also not agreed upon, both matters shall be determined by one and the same arbitration.

By-law void
if road in-
sufficient

(4) If the arbitrator determines that the road or way of access provided is insufficient, he may by his award determine what road or way of access should be provided and, in that case, unless such last-mentioned road or way of access is provided, the by-law is void and the corporation shall pay the costs of the arbitration and award. R.S.O. 1960, c. 249, s. 460.

Possession
of unopened
road allow-
ance

445.—(1) A person in possession of and having enclosed with a lawful fence that part of an original allowance for road upon which his land abuts that has not been opened for public use by reason of another road being used in lieu of it or of another road parallel or near to it having been established by law in lieu of it shall, as against every person except the corporation the council of which has jurisdiction over the allowance for road, be deemed to be legally possessed of such part until a by-law has been passed by such council for opening it.

Notice of
by-law to
be given

(2) No such by-law shall be passed until notice in writing of the intention to pass it has been given to the person in possession, at least eight days before the meeting of the council at which the by-law is to be taken into consideration. R.S.O. 1960, c. 249, s. 461.

Publication
of by-law,
etc.

446.—(1) Before passing a by-law for stopping up, altering, widening, diverting, selling or leasing a highway or for establishing or laying out a highway,

- (a) notice of the proposed by-law shall be published at least once a week for four successive weeks, and in the case of a village or of a township with a population of less than 40,000 shall be posted up for at least one month in six of the most public places in the immediate neighbourhood of the highway or proposed highway; and
- (b) the council or a committee of council shall hear in person or by his counsel, solicitor or agent any person who claims that his land will be prejudicially affected by the by-law and who applies to be heard. R.S.O. 1960, c. 249, s. 462 (1); 1961-62, c. 86, s. 50; 1966, c. 93, s. 33.

(2) The clerk shall give the notices upon payment by the applicant, if any, for the by-law, of the reasonable expenses to be incurred in so doing. R.S.O. 1960, c. 249, s. 462 (2). Notices

447. Where the owners of and other persons interested in the land required to be taken for the highway consent in writing to the passing of the by-law for establishing, laying it out or widening it, or where such land has been acquired by the corporation, section 446 does not apply to the by-law. R.S.O. 1960, c. 249, s. 463; 1961-62, c. 86, s. 51. When publication of by-law not required

448.—(1) Where an allowance for a sideline road between lots in a double front concession in a township was so run in the original survey that the line in the front half of the concession does not meet the line in the rear half, the council of the township may open and lay out a road to connect the ends of such lines where they do not so meet. Sidelines in double front concessions

(2) The by-law shall provide that the road shall be opened and laid out in accordance with a survey to be made by an Ontario land surveyor named in the by-law. Term of by-law

(3) A judge of the county or district court of the county or district in which the township is situate, on the application of any person over whose land the connecting road will pass, who objects to the surveyor appointed by the by-law, may appoint another Ontario land surveyor in the place of the one so appointed. Appointment of another surveyor by judge

(4) The application shall be made within one month after the service of the copy of the by-law on the applicant and at least five days notice of the time when and the place where it will be heard by the judge shall be served upon every other person over whose land the connecting road will pass and upon the clerk of the municipality. Application for appointment

(5) The surveyor appointed by the by-law or, if another is appointed by the judge in his place, the surveyor so appointed shall determine the compensation to be paid to the persons whose Compensation, determination

lands are taken for the connecting road, and the amount so determined shall be paid to them by the corporation of the township.

Determination final

(6) The determination of the surveyor as to the compensation is final. R.S.O. 1960, c. 249, s. 464.

Mistakes in opening road allowances

449. Where the council of a municipality desiring to open an original allowance for road has by mistake opened a road that was intended to be, but is not wholly or partly upon such allowance, the land occupied by the road as so opened shall be deemed to have been expropriated under a by-law of the corporation, and no person on whose land such road or any part of it was opened is entitled to bring or maintain an action for or in respect of what was done or to recover possession of his land, but he is entitled to compensation under and in accordance with the *Expropriations Act* as for land expropriated under the powers conferred by this Act. R.S.O. 1960, c. 249, s. 465 (1), *amended*.

R.S.O. 1970, c. 154

Sanction of council to laying out of highways
Width of highways

450.—(1) No highway shall be laid out in any municipality without the sanction of the council of the municipality.

(2) No highway less than 66 feet in width or, except in a city or town, more than 100 feet in width shall be laid out by the council of the municipality without the approval of the Municipal Board or by any owner of land without the approval of the council of the municipality and of the Municipal Board.

Proviso
R.S.O. 1970, c. 349

(3) Nothing in this section affects *The Planning Act*.

Exception as to lane

(4) Subsection 2 does not apply and has never applied to any lane laid out in the rear of lands abutting on another highway or to any outlet connecting such a lane with a highway. R.S.O. 1960, c. 249, s. 466.

Agreement for removal of obstructions to view of drivers

451.—(1) The council of any municipality may enter into an agreement with the owner of land adjacent to the intersection of any two highways under the jurisdiction of the council or the intersection of a highway under the jurisdiction of the council and a railway or rapid transit right-of-way for the removal or alteration of any tree, shrub, bush, hedge, fence, signboard or other object on the land that may obstruct the view of drivers of vehicles or pedestrians on the highway when approaching the intersection. R.S.O. 1960, c. 249, s. 467 (1); 1961-62, c. 86, s. 52.

Application to judge for order

(2) If the council is unable to make an agreement as provided in subsection 1, it may apply to the judge of the county court of the county in which the land is situate for an order compelling the removal or alteration of any object in respect of which the application is made, upon such notice to the owner of the land affected as the judge may direct, and the judge may make an

order, subject to the payment of such compensation or upon such other conditions as he may fix, compelling the owner of the land to remove or alter the object, or authorizing the municipal corporation to remove or alter the same and for that purpose to enter upon the land, and *The Judges' Orders Enforcement Act* applies to such an order. R.S.O. 1960, c. 249, s. 467 (2).

R.S.O. 1970,
c. 227

452.—(1) By-laws may be passed:

1. By the council of every municipality for granting aid to the corporation of any immediately adjoining municipality towards opening, widening, maintaining or improving any highway within such municipality, or constructing, maintaining or improving any bridge therein.

Granting
aid for
opening or
improving,
etc., high-
ways

2. By the council of every local municipality for granting aid to the corporation of the county in which the municipality is situate towards opening and making any new road on the boundary of the municipality or constructing any new bridge on such boundary line.

By local
municipi-
palities to
county

3. By the councils of cities, towns and villages for granting aid to the corporation of a township in the county in which the city, town or village is territorially situate or in an adjoining county towards opening, widening, maintaining or improving any highway in such township that constitutes or is to constitute or forms or is to form part of a highway leading to such city, town or village, or towards constructing, maintaining or improving any bridge forming or that is to form part of such highway.

By cities,
towns and
villages to
township

4. By the councils of counties for granting aid towards making, improving or maintaining any county or township boundary line.

By counties
for boundary
lines

5. By the councils of counties for granting aid to the corporation of any town, village or township towards,

By counties
to towns,
villages and
townships

(a) opening any new highway or constructing any new bridge in the municipality;

(b) opening, widening, maintaining or otherwise improving any highway leading from or passing through the municipality into a county road, or constructing, maintaining or improving any bridge forming or that is to form part of such highway.

6. By the councils of townships,

By town-
ships to
county

(a) for granting aid to the corporation of a county adjoining that in which the township is situate towards opening, widening, maintaining or improving any highway lying between the township and another municipality in the adjoining county, or towards constructing, maintaining or improving any bridge on such highway;

- (b) for granting aid for the like purposes to the corporation of the county in which the township is situate in respect of any highway or bridge within the township assumed as a county road or bridge or agreed to be so assumed on condition that such aid shall be granted.

By municip-
alities in
unorganized
territory

7. By the council of a municipality in unorganized territory for opening, widening, maintaining or improving any highway or constructing, maintaining or improving any bridge in an adjoining municipality or in a municipality situate in such adjoining municipality or in an adjoining unorganized township or in adjoining unsurveyed territory or for granting aid to any adjoining municipality or to any municipality situate in such adjoining municipality for any of such purposes.

Character
of aid

(2) The aid may be granted by way of loan or otherwise. R.S.O. 1960, c. 249, s. 468.

453. By-laws may be passed by the council of every municipality:

Boulevards

1. For setting apart portions of the highways at or near the sides of them for the purpose of boulevards, and for permitting the owners of land abutting on a highway to construct, make and maintain at their own expense boulevards on that part of the highway that may be set apart for that purpose, but not so as unreasonably to confine, impede or incommode public traffic.

Regulation

2. For regulating the construction, maintenance and protection of such boulevards. R.S.O. 1960, c. 249, s. 469, pars. 1, 2.

Use of
highways
by owners
and lessees
of abutting
lands

3. For permitting the owners of land to make, maintain and use areas under and openings to them in the highways and sidewalks and for permitting the owners or lessees of land abutting on one side of a highway to construct, maintain and use a bridge or other structure over, across or under the highway for the purpose of access to land on the other side of the highway, which any such owner or lessee owns or leases or in respect of which he has a licence of occupation, and for permitting the owners of land to maintain and use signs and other advertising devices that project over the sidewalks, movable receptacles containing plants, shrubs or trees over or upon the sidewalks and canopies that project over the sidewalks, and for permitting the owners or lessees of land to make, maintain and use over the sidewalks and untravelled portions of the highway covers of cloth, rubber, plastic or similar material with suitable frames therefor at a height of not less than eight feet above the highway together with posts for the support of such cover and frame, and for permitting the owners or lessees of land to install, maintain and use heating devices in, under, over or upon the sidewalks and for permitting the owners or lessees of land to leave in the highways piling or shoring used in building operations after the building operations are completed and for

prescribing the terms and conditions upon which the same shall be made, constructed, installed, maintained and used and for making such annual or other charge for the privilege conferred by the by-law as the council considers reasonable, and for providing that, upon the termination of such privilege, the highway shall be restored to its former condition at the expense of the owner or lessee of the land, to which the privilege is appurtenant, by filling in the area or opening, removing the bridge, structure, sign or other advertising device, receptacle, canopy, cover, frame and posts or heating device or otherwise as may be required by the by-law.

- (a) Such annual or other charge and any expense incurred by the corporation in restoring the highway to its former condition is payable, and payment of it may be enforced in like manner as taxes are payable, and payment of them may be enforced. Charge

- (b) The corporation is liable for any want of repair of the highway that may result from the construction, installation, maintenance and use of any such area or opening, bridge or structure, sign or advertising device, receptacle, canopy, cover, frame and posts or heating device or piling or shoring but is entitled to the remedy over provided for by section 434 against the person by whose act or omission the want of repair is caused. 1967, c. 55, s. 20; 1968, c. 76, s. 28. Liability of corporation for damages

4. For setting apart so much of any highway as the council may consider necessary for the purposes of a bicycle path or of a foot path. Bicycle and foot paths

- (a) Any person who rides or drives a horse or other beast of burden or a motor vehicle, wagon, carriage or cart over or along any such path is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$20.

5. For preserving or selling the timber or trees on any original allowance for road, subject however to the rights, if any, of a Crown timber licensee under *The Crown Timber Act* and, in the case of an unopened original allowance for road, subject also to the approval of the Minister of Lands and Forests. Timber on road allowances
R.S.O. 1970,
c. 102

6. For making regulations as to pits, precipices and deep waters and other places dangerous to travellers within the municipality or within any defined area or areas thereof. Regulations re pits, precipices, etc.

7. For acquiring either alone or jointly with the corporation of another municipality such land in either municipality as may be considered necessary for procuring therefrom stone or gravel for use in making, maintaining or repairing the highways under the jurisdiction of the council or councils, or for any other purpose. R.S.O. 1960, c. 249, s. 469, pars. 4-7. Stone and gravel pits

Power to enter upon land to take timber, gravel, etc.

8. For entering upon and searching for and taking from land within the municipality, or with the consent of the council of an adjacent municipality expressed by by-law or resolution from land in such municipality, such timber, gravel, stone or other material as may be necessary for constructing, maintaining and keeping in repair the highways and bridges, or for any other purpose. R.S.O. 1960, c. 249, s. 469, par. 8, *amended*.

454. By-laws may be passed by the council of every local municipality:

Leasing of untravelled portions of highways

1. For leasing or licensing the use of untravelled portions of highways under the jurisdiction of the council, except highways that are extensions or connecting links of the King's Highway, within those portions of the municipality in which land may be used for commercial or industrial purposes, to the owners or occupants of adjoining property for such consideration and upon such terms and conditions as may be agreed.

Use of untravelled portions of highways under lease

2. For regulating and controlling the use, including the use for parking purposes, of untravelled portions of highways under the jurisdiction of the council that are not extensions or connecting links of the King's Highway, which are leased or in respect of which a licence is granted under paragraph 1. 1966, c. 93, s. 35.

Purchasing or renting machinery

455. The council of every municipality may pass by-laws for purchasing conditionally, or otherwise, or for renting for a term of years or otherwise, machinery and appliances for the purposes of the corporation, and for borrowing money for the purpose of paying the purchase price for any period not exceeding five years and for issuing debentures for the money so borrowed, or for issuing to the vendor debentures payable within that period in payment of the purchase money. R.S.O. 1960, c. 249, s. 470; 1961-62, c. 86, s. 53.

Taking stock in bridge company

456. The council of every municipality may pass by-laws for subscribing for any number of shares in the capital stock of or for lending money to or guaranteeing the payment of any money borrowed by a bridge company incorporated for the purpose of erecting and maintaining any bridge within, or partly within, the municipality or between it and another municipality. R.S.O. 1960, c. 249, s. 471.

Interpretation

457.—(1) In this section, "tree" includes a growing tree or shrub planted or left growing on either side of a highway for the purpose of shade or ornament.

Planting trees on highways

(2) Any person may plant trees on a highway with approval of the council of the municipality expressed by resolution.

(3) Every tree upon a highway shall be appurtenant to the land adjacent to the highway and nearest thereto. R.S.O. 1960, c. 249, s. 473 (1-3). Land to which appurtenant

(4) The council of every municipality may pass by-laws, By-laws

- (a) authorizing and regulating the planting of shade or ornamental trees upon any highway;
- (b) granting money to be expended for such purpose;
- (c) authorizing and regulating the planting, with the consent of the owner, of shade or ornamental trees within eight feet of any highway at the expense of the municipality, provided that any tree planted under the authority of any such by-law is the property of the owner of the land in which it is planted, and the municipality is not liable for maintenance or otherwise in respect of any tree so planted.
- (d) for preserving trees;
- (e) for prohibiting the injuring or destroying of trees;
- (f) for causing any tree planted upon a highway to be removed when considered necessary in the public interest, but the owner of the trees shall be given ten days notice of the intention of the council to remove such tree and be recompensed for his trouble in planting and protecting it and, if he so desires, is entitled to remove the tree himself, but is not entitled to any further or other compensation;
- (g) prohibiting the planting of any species of tree that the council considers unsuited for that purpose and for the removal without notice of such trees growing on a highway or planted thereon contrary to any such by-law;
- (h) authorizing any officer or committee of the council to supervise the planting of trees upon the highways and the trimming of trees planted upon a highway or upon private property where the branches extend over a highway, or to remove decayed or dangerous trees or trees that have by by-law of the municipality been directed to be removed;
- (i) prohibiting the attaching of any object or thing to a tree located on any highway or public place, except with the consent of an officer of the municipality named in the by-law, notwithstanding that such attachment would not injure or destroy the tree. R.S.O. 1960, c. 249, s. 473 (4); 1966, c. 93, s. 36.

Service of
notices

(5) Any notice required by subsection 4 may be given by leaving it with a grown-up person residing on the land or, if the land is unoccupied, by posting it in a conspicuous place on the land.

Consent
required to
removal, etc.

(6) Except with the authority of the council or a committee or officer thereof appointed as aforesaid, no person shall remove or cut down or injure any tree growing upon a highway. R.S.O. 1960, c. 249, s. 473 (5, 6).

Prohibition
as to tying
animals, etc.

(7) Any person who ties or fastens any animal to or injures or destroys a tree growing upon a highway or who suffers or permits any animal in his charge to injure or destroy such tree or who cuts down or removes any such tree contrary to this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. R.S.O. 1960, c. 249, s. 473 (7), *amended*.

Expenditure
for works in
any county
of a union

458.—(1) The councils of united counties may pass by-laws for raising or borrowing money to be expended exclusively in any one of the counties forming the union.

What mem-
bers to vote
on by-law

(2) None of the members of the council but those representing local municipalities in the county in which the expenditure is to be made shall vote upon the by-law except, in the case of an equality of votes, when the warden has the casting vote.

What prop-
erty assess-
able for
rates

(3) The sums to be raised by taxation for the purpose of making any such expenditure and the sums required to be raised to pay the principal and interest of any money borrowed for that purpose shall be assessed and levied only upon the rateable property in the county in which the expenditure is to be made.

Debentures,
issue of

(4) Every debenture issued under the authority of the by-law shall be issued as the debenture of the corporation of the united counties, but it shall be stated in the body of it that the payment of the principal and interest is to be provided for by a special rate upon the rateable property in the county in which the expenditure is to be made and upon that property only. R.S.O. 1960, c. 249, s. 474.

Prizes for
best kept
roadside, etc.

459. The council of a township may pass by-laws for granting a prize not exceeding \$10 for the best kept roadside, farm front and farm house surroundings, in each public school section in the township, and for prescribing the conditions, upon which such prizes may be competed for and awarded. R.S.O. 1960, c. 249, s. 475.

460. The councils of all municipalities may pass by-laws:

Obstruction
of highways

1. For prohibiting or regulating the obstructing, encumbering, injuring or fouling of highways or bridges. R.S.O. 1960, c. 249, s. 476, par. 1.

2. For regulating the crossing of curbing, sidewalks or paved boulevards by vehicles delivering materials to or removing materials from abutting lands on which any building is being erected, altered, repaired or demolished, and for requiring the owners of such abutting lands, upon any application for the issuing of a permit certifying to the approval of plans of buildings to be erected, altered, repaired or demolished thereon, to pay to the municipality a sum of money not to exceed \$5 per foot of the limit of the lot abutting directly on such sidewalk, curbing or paved boulevard as a deposit to meet the cost of repairing any damage to the sidewalk, curbing or paved boulevard or to any water service box or other service therein caused by the crossing thereof by such vehicles.

Deposit re
damages to
sidewalks,
etc., upon
issue of
building
permit

- (a) Where a by-law passed under this paragraph requires the payment of a deposit to cover the cost of damage to a sidewalk, curbing or paved boulevard, or to any water service box or other service therein, the by-law shall provide that, upon the completion of the erection, alteration, repair or demolition of the building or buildings on the lands abutting such sidewalk, curbing or paved boulevard and upon application by the person by whom the deposit was paid, the amount by which the sum deposited exceeds the cost of such repairs shall forthwith be refunded.
- (b) Where any moneys paid under this paragraph remain unclaimed for a period of six years, the municipal treasurer may cause to be published a notice containing a list of such unclaimed moneys, including the name of the depositor, and stating that all persons having any claim to any of such moneys are required to prove their claims within ninety days from the publication of the notice, and, upon the expiration of ninety days from the publication of such notice, the treasurer may transfer all of such moneys against which no claim has been made to the general funds of the municipality free of and from any and all claims of any kind whatsoever.
- (c) Without limiting the generality of the foregoing, a by-law passed under this paragraph may require that the owner or occupier of the lands take all necessary steps to prevent building material, waste or soil from being spilled or tracked onto the public streets by vehicles going to or coming from the lands during the course of the erection, alteration, repair or demolition and may provide that, in addition to any penalty otherwise provided by law, the owner or occupier shall be responsible to the municipality for the cost of removing such building material, waste or soil, and such

cost may be deducted from the deposit. 1968-69, c. 74, s. 28.

Removal of
doorsteps,
etc.

3. For requiring doorsteps, porches or other erections or things projecting into or over any highway to be removed by the owner or occupant of the land in connection with which they exist.

Prohibiting
building or
maintaining
fences on
highways

4. For prohibiting the building or maintaining of fences on any highway or the placing or depositing of firewood or any other thing calculated to obstruct it or to obstruct or interfere with public travel on it, on any highway or bridge, and for requiring the removal of them by the person by whom the same are or were so built, maintained, placed or deposited.

(a) Unless the by-law otherwise provides, a by-law passed under the authority of this paragraph does not extend or apply to a worm fence that is not for more than half its width upon the highway, or to materials to be used for the construction or repair of a highway or bridge, if they do not interfere with the use of it for public travel.

Prohibiting
throwing
dirt, glass,
etc., on
highways

5. For prohibiting the throwing, placing or depositing of dirt, filth, glass, handbills, paper or other rubbish or refuse, or the carcass of any animal, on any highway or bridge.

Ditches and
culverts

6. For prohibiting the obstruction of ditches or culverts upon highways.

Traffic signs

7. To provide for placing, regulating and maintaining upon the public highways traffic signs for the purpose of guiding and directing traffic; provided that no by-law shall authorize the placing of such signs upon that portion of any highway that lies between the double tracks of a street railway constructed upon such highway known as the devil strip. R.S.O. 1960, c. 249, s. 476, pars. 2-6.

Installation
of meters for
controlling
parking of
vehicles on
highways,
and charging
of fees for
parking

8. For erecting, maintaining and operating on any highway or portion of a highway automatic or other mechanical meters or devices, with the necessary standards for the same, for the purpose of controlling and regulating the parking of any vehicle on the highway and measuring and recording the duration of such parking, for requiring drivers of every vehicle parked on such highways to make use of such meters or devices, and to pay for parking such vehicle on the highway a fee according to the amount or scale prescribed by the by-law and as measured by the meter or device, and for prohibiting parking of vehicles on such highway or portion of a highway unless such meter or device is made use of and such fee is paid, and for limiting the right of parking of vehicles on such highway to such drivers as do make use of such meters or devices and pay such fees.

No action
except for
negligence

(a) No municipality or municipal parking authority, except in case of negligence, is liable for personal injury or for

damage by reason of the erection, maintenance or operation of such meters or devices with the necessary standards for the same under the authority of a by-law passed under this paragraph, or by reason of a vehicle being parked on the highway under the terms of such by-law.

- (b) The driver of a vehicle, not being the owner, is liable to any penalty provided under a by-law passed under this paragraph and the owner of the vehicle is also liable to such a penalty unless at the time the offence was committed the vehicle was in the possession of a person other than the owner or his chauffeur without the owner's consent. R.S.O. 1960, c. 249, s. 476, par. 7; 1960-61, c. 59, s. 23.

Owner and
driver
liable for
penalties

461.—(1) Where a highway for the site of which compensation was paid is established and laid out in place of the whole or any part of an original allowance for road, or where the whole or any part of a highway is legally stopped up, if the council determines to sell such original allowance or such stopped-up highway, the price at which it is to be sold shall be fixed by the council, and the owner of the land that abuts on it has the right to purchase the soil and freehold of it at that price.

Selling
original road
allowance
or highway

(2) Where there are more owners than one, each has the right to purchase that part of it upon which his land abuts to the middle line of the stopped-up highway.

Prior right
of owners
of abutting
lands

(3) If the owner does not exercise his right to purchase within such period as may be fixed by the by-law or by a subsequent by-law, the council may sell the part that he has the right to purchase to any other person at the same or a greater price. R.S.O. 1960, c. 249, s. 477.

Sale by
council to
other persons

462.—(1) Where a highway for the site of which compensation was not paid has been laid out and opened in the place of the whole or any part of an original allowance for road, the owner of the land appropriated for the highway or his successor in title, if he owns the land that abuts on such allowance, is entitled to the soil and freehold of it and, if it has not already been conveyed to him or his predecessor in title, to a conveyance of it.

Where owner
of land taken
for highway
entitled to
original road
allowance

(2) Where the land that so abuts is owned by more persons than one, each is entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

When more
than one
owner

(3) If the owner of the land appropriated for the highway or his successor in title does not own any land abutting on the allowance and the allowance is sold by the council, he is entitled to a part of

Where owner
of land taken
owns no land
abutting on
allowance

the purchase money that bears the same proportion to the whole purchase money as the value of the part of the site of the new highway that belonged to him bears to the value of the whole site. R.S.O. 1960, c. 249, s. 478.

When person
in possession
entitled to
original
allowance

463.—(1) A person in possession of the whole or any part of an original allowance for road in place of which he or any of his predecessors in title has laid out and opened a new road or street without receiving compensation for the site of it is entitled to the soil and freehold of such allowance or part of it and, if it has not already been conveyed to him or to his predecessor in title, to a conveyance of it.

Where
several
persons in
possession

(2) Where there are more persons than one in such possession, each is entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

Requirement
as to
assumption
of road by
corporation

(3) If the road has not been adopted by by-law of the council or otherwise assumed for public use by the corporation, this section does not apply until the new road or street is adopted by by-law of the council, and the council by by-law declares that the original allowance is, in its opinion, useless to the public. R.S.O. 1960, c. 249, s. 479.

Stopping up
highways in
unorganized
territory

464. The Lieutenant Governor in Council may stop up, alter, widen or divert any highway or part of a highway in a provisional judicial district not being within an organized municipality, and may sell or lease the soil and freehold of any such highway or part of a highway that he has stopped up or that, in consequence of an alteration or diversion of it, no longer forms part of the highway as altered or diverted. R.S.O. 1960, c. 249, s. 480.

Opening up
highways
where
5 per cent
reserved

465.—(1) The council of a township in unorganized territory surveyed without road allowances, but in which 5 per cent of the area is reserved for highways, may pass by-laws for opening and making highways where necessary and the provisions of this Act as to compensation for lands taken or injuriously affected by the exercise of the powers conferred by this section do not apply.

Filing plan
of roads in
Department
of Lands
and Forests

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as provided in subsection 1, the corporation shall cause a plan thereof, so far as it affects ungranted lands of the Crown, to be made by an Ontario land surveyor and shall file the plan in the Department of Lands and Forests. R.S.O. 1960, c. 249, s. 481.

PART XXI

PENALTIES AND ENFORCEMENT OF BY-LAWS

466.—(1) By-laws may be passed by the councils of all municipalities and by boards of commissioners of police for imposing fines of not more than \$300, exclusive of costs, upon every person who contravenes any by-law of the council or of the board passed under the authority of this Act. R.S.O. 1960, s. 249, s. 482 (1). Power to impose fines

(2) Every such fine is recoverable under *The Summary Convictions Act*, all the provisions of which apply, except that proceedings to enforce by-laws passed under section 38 of *The Planning Act* or any predecessor of such section may be instituted within one year after the time when the subject-matter of the proceedings arose and except that the imprisonment may be for a term of not more than six months for the breach of a by-law of the council or the board of commissioners of police of a city, and in all other cases for a term of not more than twenty-one days. R.S.O. 1960, c. 249, s. 482 (2); 1961-62, c. 86, s. 55 (1). Recovery
R.S.O. 1970,
cc. 450, 349

467. Except as otherwise provided in any Act, every fine imposed for a contravention of a by-law of a municipality or a local board thereof belongs to the municipality. R.S.O. 1960, c. 249, s. 483, *amended*. Application of fines

468.—(1) A conviction for a contravention of any by-law shall not be quashed for want of proof of the by-law before the convicting justice, but the court or a judge hearing the motion to quash may dispense with such proof or may permit the by-law to be proved by affidavit or in such other manner as may be considered proper. Convictions not invalidated for want of proof of by-law

(2) Nothing in this section relieves a prosecutor from the duty of proving the by-law or entitles the justice to dispense with such proof. R.S.O. 1960, c. 249, s. 484. Requirement as to proof

469. Where a council has authority to direct or require by by-law or otherwise that any matter or thing be done, the council may by the same or by another by-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at his expense, and the corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes, or the council may provide that the expense incurred by it, with interest, shall be payable by such person in annual instalments not exceeding ten years and may, without obtaining the assent of the electors, Enforcing performance of things required to be done under by-laws

borrow money to cover such expense by the issue of debentures of the corporation payable in not more than ten years. R.S.O. 1960, c. 249, s. 485.

Power to
restrain
by action

470. Where any by-law of a municipality or of a local board thereof, passed under the authority of this or any other general or special Act, is contravened, in addition to any other remedy and to any penalty imposed by the by-law, such contravention may be restrained by action at the instance of a ratepayer or the corporation or local board. R.S.O. 1960, c. 249, s. 486.

PART XXII

POLICE VILLAGES

TRUSTEES—ELECTION OF, ETC.

Trustees,
number

471.—(1) There shall be three trustees for every police village.

General
powers

(2) The trustees may contract and may sue and be sued and may pass by-laws by and in the name of the trustees of the police village of (*naming it*), but they are not personally liable upon their contracts. R.S.O. 1960, c. 249, s. 491.

Application
of provisions
as to
election, etc.,
of township
councillors

472.—(1) Except where other provision is made in this Part and except as provided by subsections 2 to 7, the provisions of Parts II, III and IV, which are applicable to councillors of townships, apply *mutatis mutandis* to trustees of police villages.

Returning
officer,
nomination
and polling

(2) The trustees shall appoint the returning officer and the place within the village for holding the nomination and for the polling of every election except the first.

Returning
officer may
vote

(3) Where the returning officer for the police village is not the clerk to whom the ballot box is to be returned, the returning officer is entitled to vote at the election if otherwise qualified.

Duty of clerk
of township
as to
preparing
voters' list

(4) The clerk of every township, a part of which is comprised in the village, not later than the day before that on which the polling is to take place, shall deliver to the returning officer of the village a copy of so much of the voters' list as relates to the village, attested by his declaration in writing as a true copy thereof.

Return of
ballot box

(5) The return of the ballot box provided for by section 115 shall be made,

- (a) where the village lies wholly within the township, to the clerk of that township;
- (b) where the village comprises parts of two or more townships in the same county, to the clerk of that county;

- (c) where the village comprises parts of two or more townships in different counties, to the clerk of the county in which the larger or largest part of the village is situate.

(6) The clerk to whom the ballot box is returned shall perform the duties that under sections 119 and 120 are to be performed by the clerk of a municipality.

Duties of clerk on receiving ballot box

(7) No person is qualified to be elected a trustee unless he has the prescribed qualification in respect of land situate in the village and resides in or within two miles of the village.

Qualification of trustee

(8) No person is qualified to vote at an election of trustees unless he has the prescribed qualification in the village.

Qualification of elector

(9) The first meeting of the trustees after the election shall be held at noon on the third Monday in January, or on some day thereafter at noon. R.S.O. 1960, c. 249, s. 492.

First meeting of trustees

473. If a vacancy occurs in the office of trustee, the remaining trustees or trustee shall appoint, by writing, a trustee to fill the vacancy. R.S.O. 1960, c. 249, s. 493.

Vacancies, how filled

474. Any trustee may be paid such annual or other remuneration as the trustees may determine. R.S.O. 1960, c. 249, s. 494; 1968, c. 76, s. 29.

Remuneration

475.—(1) The trustees shall, by writing, appoint one of their number to be inspecting trustee.

Appointment of inspecting trustee

(2) Forthwith after the making of an appointment under subsection 1 or under section 473, the writing by which the appointment is made shall be filed with the clerk to whom the ballot box is to be returned as provided by subsection 5 of section 472. R.S.O. 1960, c. 249, s. 495.

Requirement as to filing appointment of inspecting trustee, etc.

476.—(1) The trustees may at any time before the 1st day of June in any year by a requisition in writing require the council of the township in which the village is situate to cause to be levied, along with the other rates upon the rateable property in the village, such sum as the trustees consider necessary to defray the expenditure of the trustees for the current year.

Requisition on township council to raise sums to meet expenditure

(2) Where the village comprises parts of two or more townships, the requisition shall be made on the council of each township for its proportion of the whole amount to be levied as ascertained in the manner provided by section 477.

Where village situate in more than one township

(3) The amount that the trustees may require to be so levied shall not in any year exceed a sum that a rate of $1\frac{1}{2}$ cents in the dollar in the case of a police village in a township or townships in

Limit of rates

which statute labour has been abolished, and in other cases 1 cent in the dollar, on the rateable property in the village will provide, but this does not apply to a rate imposed or to be levied under section 482, 483 or 485. R.S.O. 1960, c. 249, s. 496.

Apportionment of rate among townships by treasurers

477.—(1) Where a village comprises parts of two or more townships, the proportion of the amount required to be levied in each township shall be determined by the treasurers of the townships.

Meeting of treasurers

(2) A meeting of the treasurers shall be held in every second year following the latest determination and the treasurers shall determine the proportion to be levied in each township.

Determination when treasurers differ

(3) If the treasurers differ, notice of the fact shall be forthwith given to the inspecting trustee, who shall act with the treasurers in determining the proportions, and the decision of a majority is final and conclusive.

Notice of determination to be given to clerk of township

(4) The determination of the treasurer or of the treasurers and the inspecting trustee shall be forthwith communicated to the clerk of each of the townships.

Who to call meeting of treasurers

(5) The meeting of the treasurers shall be called by the treasurer of the township in which is situate the larger or largest part of the rateable property of the village.

How long determination to govern

(6) The proportions as determined under this section govern until the next determination is to be made as provided by subsection 2. 1968-69, c. 74, s. 29.

Reduction of township rates for general purposes

478.—(1) The ratepayers of the village are entitled to such deduction from the township rate for general purposes payable by them as may be agreed upon between the trustees and the council of the township or, if the village comprises parts of two or more townships, by the councils of the respective townships or, if they are unable to agree, as shall be determined by a judge of the county court of the county in which the village is situated or, if the village is situated in two or more counties, of the county in which the assessment of the lands in the part of the village within the county is larger than the assessment of the lands in the part of the village within any other county. R.S.O. 1960, c. 249, s. 498 (1).

Application to O.M.B.

(2) Either party may at any time apply to the Municipal Board for a modification of the terms of the agreement or order. R.S.O. 1960, c. 249, s. 498 (2); 1965, c. 77, s. 35.

Performance of statute labour

479.—(1) The trustees are entitled to have the statute labour to be performed by the ratepayers of the village performed in the village.

(2) If the trustees request the council of a township to commute the statute labour payable by the ratepayers in that part of the village that is situate in the township, the council shall provide for such commutation at such rate, not exceeding \$3 per day, as may be requested by the trustees. When council required to commute

(3) The amount of the commutation money shall be collected by the collector of the township and be placed to the credit of the trustees in the books of the treasurer of the township. R.S.O. 1960, c. 249, s. 499. Collection and application of commutation money

480. The trustees may, Powers of trustees

- (a) construct sidewalks and culverts and make, improve, drain and repair the highways in the village;
- (b) make contracts for the supply of light, heat, power, water or other public utilities by any person to the trustees for the purposes of the village or to the residents thereof;
- (c) enter into agreements for the supply of fire protection in the village by any person or corporation,

and do all things necessary for any of such purposes. R.S.O. 1960, c. 249, s. 500.

481.—(1) The treasurer of a township shall, if he has money of the corporation in hand and not otherwise appropriated, from time to time pay any order of the inspecting trustee or of any two of the trustees to the extent of, Payment by township treasurer of orders of trustees

- (a) the sum required by section 476 to be levied by the council of the township and any sum that the council is required by the provisions of this Part to place to the credit of the trustees, although the same have not been then collected;
- (b) any money received for licence fees under any by-law of the trustees and for penalties for breaches of any such by-law or of sections 489, 490 and 491.

(2) An order shall not be given under this section except for work actually performed or in payment pursuant to an executed contract. R.S.O. 1960, c. 249, s. 501. When order not to be given

482.—(1) Upon the application of the trustees, the council of a township in which a police village is situate shall submit for the assent of the electors of the village and, if it receives such assent, shall pass a by-law for borrowing money for, Submission of money by-laws for certain purposes

- (a) the construction of sidewalks of cement, concrete, brick or other permanent material;

- (b) the purchase of fire engines and other appliances for fire protection and the supply of water therefor;
- (c) lighting the highways in the village;
- (d) supplying water, light, heat or power to the trustees for the purposes of the village or to the residents thereof;
- (e) acquiring land as a site for and erecting thereon a police village hall,

and for the issue of debentures of the corporation of the township for the money borrowed.

Special rate (2) The special rate for the payment of the principal and interest shall be imposed upon the rateable property in the village.

Expenditure of money borrowed (3) The money borrowed shall be retained in the hands of the treasurer of the township, and he shall pay out of it the orders of the inspecting trustee or of any two trustees in payment for work actually performed or of an executed contract with respect to the work or service for undertaking which the by-law was passed.

Undertaking of work (4) When the by-law is passed, the trustees may undertake the work or service.

Control of fire engines, etc. (5) The trustees have the control, care and management of the fire engine and appliances, and of the plant and appliances for the supply of water, light, heat or power, and of the police village hall.

Statement to be furnished to clerk of township of amount required to be levied for certain purposes (6) The trustees shall in each year before the striking of the rate by the council of the township furnish to the clerk a statement showing in detail the amount required to be levied upon the rateable property of the village for the current year for any such work or service that has been undertaken and for the care and maintenance of any fire engine and appliances purchased and for providing water therefor and for the maintenance and operation of the plant and appliances for the supply of light, heat or power and of the police village hall. R.S.O. 1960, c. 249, s. 502.

Purchase of fire engines and appliances with consent of township council **483.**—(1) The trustees may, with the consent of the council of the township in which the village is situate expressed by by-law or resolution, purchase fire engines and appliances for fire protection.

Township to pass debenture by-law (2) Upon the purchase being made, the council of the township shall pass a by-law for raising the amount of the purchase money by the issue of debentures of the corporation of the township.

Special rate (3) The special rate imposed for the payment of the debentures shall be imposed upon the rateable property in the village.

Assent of electors not required (4) The assent of the electors to the by-law is not necessary.

(5) Subsections 5 and 6 of section 482 apply to a fire engine and appliances purchased under the authority of this section. R.S.O. 1960, c. 249, s. 503.

Application
of subss. 5
and 6 of
s. 482

484.—(1) The trustees may enter into agreement with any municipality for the use of the fire-fighting equipment, or any of it, of the village upon such terms and conditions and for such consideration based on cost as may be agreed upon, provided that notwithstanding any such agreement no liability accrues to the trustees for failing to supply the use of the fire-fighting equipment, or any of it.

Fire-
protection
agreements

(2) For the purposes of paragraph 4 of section 376, and for the purposes of the joint management and operation of fire departments under paragraph 5 of section 352, the trustees have all the powers of the council of a township, except the power to issue debentures. R.S.O. 1960, c. 249, s. 504.

Establish-
ment of
joint fire
departments

ESTABLISHMENT OF PARKS, GARDENS, ETC.

485.—(1) Upon the petition of three-fourths of the electors qualified to vote upon money by-laws, the council of a township in which a police village is situate may pass a by-law for acquiring land within or outside the limits of the village for a highway or for a public park, garden or place for exhibitions, and for the erection thereon of such buildings and fences as the council considers necessary for the purposes of such highway, park, garden or place for exhibitions and may dispose of such land when no longer required for such purposes.

Acquiring
land for
parks, exhi-
bitions, etc.

(2) The trustees have the care, control and management of such highway, park, garden or place.

Control and
management
of parks, etc.

(3) The council of the township may provide,

(a) that the money required for the purpose mentioned in subsection 1 shall be levied upon the rateable property in the village; or

Powers of
township
council as
to levying
cost of
parks, etc.

(b) that such money be raised by the issue of debentures of the corporation of the township.

(4) The by-law shall impose the special rate for the payment of the debentures upon the rateable property in the village.

Special rates

(5) The trustees shall annually, before the striking of the rate for the year by the council of the township, furnish to the council a statement showing in detail the amount required to be levied for the current year for managing and maintaining the highway, park, garden or place for exhibitions, and the same shall be levied upon the land in the village.

Statement as
to amount
required for
maintenance
of parks, etc.

Assent of
electors not
required

(6) The assent of the electors to a by-law passed under this section is not necessary. R.S.O. 1960, c. 249, s. 505.

Trustees to
pass money
by-laws
where village
situate in
two or more
townships

486.—(1) Where the village comprises parts of two or more townships, a by-law for the purposes mentioned in sections 482, 483 and 485 may be passed by the trustees, with the assent of the electors of the village qualified to vote on money by-laws, and for the purposes of such by-laws the trustees have all the powers of the council of a village, except the power to issue the debentures for the payment of the principal and interest.

Fixing pro-
portion of
debt to be
borne by
parts of
village

(2) The by-laws shall fix the proportion of the debt for payment of which the special rate is to be imposed, which is to be borne by the part of the village situate in each township, and such proportion shall be the same as that in which the annual sum to be levied as provided by section 476 is to be levied according to the then last determination of the assessors or of the assessors and inspecting trustee under section 477.

Certified
copy for
each
township

(3) If the by-law receives the assent of the electors, the trustees, after passing it, shall serve a certified copy of it upon the clerk of each of the townships.

By-law of
township
for raising
money

(4) The council of each township shall forthwith thereafter pass a by-law for raising the amount that is to be borne by that part of the village situate in the township by the issue of debentures of the corporation of the township, payable as provided by the by-law of the trustees, and it is not necessary that such by-law receive the assent of the electors or impose any rate for the payment of the debentures.

Special rates

(5) The special rates imposed by the by-law of the trustees shall be levied and collected by the councils of the townships within which the property upon which they are imposed is situate. R.S.O. 1960, c. 249, s. 506.

SPECIAL POWERS

Special
powers of
trustees

487.—(1) The trustees have the like power to pass by-laws as is conferred on the council of a village with respect to,

- (a) driving or riding on roads and bridges, by paragraphs 55 and 56 of section 352;
- (b) public libraries, by paragraph 39 of section 352;
- (c) vehicles on sidewalks, by paragraph 58 of section 352;
- (d) pounds, by paragraphs 4 to 7 of subsection 1 of section 354;
- (e) removal of snow and ice, by paragraphs 55 and 56 of subsection 1 of section 354;

- (f) spitting on sidewalks, by paragraph 104 of subsection 1 of section 354;
- (g) horses and cattle upon sidewalks, by paragraph 103 of subsection 1 of section 354;
- (h) traffic on highways, etc., by paragraph 107 of subsection 1 of section 354;
- (i) tobacconists, by paragraph 2 of section 382;
- (j) bagatelle and billiard tables, by paragraph 1 of section 383;
- (k) exhibitions, places of amusement, etc., by paragraph 6 of section 383; and
- (l) trees on highways, by section 457.

(2) Where power is conferred to license, the licence fee shall be fixed by the trustees, and subsections 1, 4, 5, 6 and 7 of section 246 apply. Fixing amount of licence fee

(3) While a by-law passed under subsection 1 is in force, no by-law of the council of the township applicable to the same subject-matter applies to or is in force in the village. When by-law of township not to apply to village

(4) Where a by-law is passed under clause *e* of subsection 1, the maximum length or distance of sidewalks adjoining land occupied and used as farm lands for which the occupant or owner thereof may be required to clear away and remove snow and ice or be charged with the expense of such clearing away and removal shall be limited to 200 lineal feet notwithstanding that a greater length or distance of sidewalks may adjoin such land, and the clearing away and removal of snow and ice from such greater length or distance shall be undertaken by the trustees at the expense of the police village. R.S.O. 1960, c. 249, s. 507. Length of sidewalk to be cleared by owner

488.—(1) Every by-law of the trustees shall be signed by at least two of them. Authentication of by-laws

(2) A certified copy of every such by-law shall within seven days after it is passed be transmitted to the clerk of every township a part of which is comprised in the village. R.S.O. 1960, c. 249, s. 508. Certified copies to be sent to clerk of township

PREVENTION OF FIRE

489.—(1) Every proprietor of a house more than one storey high shall place and keep a ladder on the roof of such house near to or against the principal chimney thereof, and another ladder reaching from the ground to the roof of such house, under a fine of \$1 for every omission, and a further fine of \$2 for every week for which such omission continues. For providing ladders, etc.

- Fire buckets (2) Every householder shall provide himself with two buckets fit for carrying water in case of accident by fire, under a fine of \$1 for each bucket not so provided.
- Furnaces, etc. (3) No person shall build any oven or furnace unless it adjoins and is properly connected with a chimney of stone or brick at least three feet higher than the house or building in which the oven or furnace is built, under a fine of not more than \$2 for non-compliance.
- Stove pipes etc. (4) No person shall pass a stove pipe through a wooden or lathed partition or floor, unless there is a space of four inches between the pipe and the woodwork nearest thereto, and the pipe of every stove shall be inserted into a chimney, and there shall be at least ten inches in the clear between any stove and any lathed partition or woodwork, under a fine of \$2.
- Light in stables, etc. (5) No person shall enter a mill, barn, outhouse or stable with a lighted candle or lamp, unless it is well enclosed in a lantern, nor with a lighted pipe or cigar, nor with fire not properly secured, under a fine of \$1.
- Chimneys (6) No person shall light or have a fire in a wooden house or outhouse, unless such fire is in a brick or stone chimney, or in a stove of iron or other metal, properly secured, under a fine of \$1.
- Securing fire carried through streets, etc. (7) No person shall carry fire or cause fire to be carried into or through any street, lane, yard, garden or other place, unless such fire is confined in a copper, iron or tin vessel, under a fine of \$1 for the first offence, and of \$2 for every subsequent offence.
- Lighting fires on streets (8) No person shall light a fire in a street, lane or public place under a fine of \$1.
- Hay, straw, etc. (9) No person shall place hay, straw or fodder, or cause the same to be placed, in a dwelling house, under a fine of \$1 for the first offence, and of \$5 for every week the hay, straw or fodder is suffered to remain there.
- Ashes, etc. (10) No person, except a manufacturer of pot or pearl ashes, shall keep or deposit ashes or cinders in any wooden vessel, box or thing not lined or doubled with sheet-iron, tin or copper, so as to prevent danger of fire from such ashes or cinders, under a fine of \$1.
- Lime (11) No person shall place or deposit any quick or unslacked lime in contact with any wood of a house, outhouse or other building, under a fine of \$1, and a further fine of \$2 a day until the lime has been removed, or is secured, so as to prevent any danger from fire, to the satisfaction of the inspecting trustee.
- Charcoal furnaces (12) No person shall erect a furnace for making charcoal of wood, under a fine of \$5. R.S.O. 1960, c. 249, s. 509.

GUNPOWDER

490.—(1) No person shall keep or have gunpowder for sale, except in boxes of copper, tin or lead, under a fine of \$5 for the first offence, and \$10 for every subsequent offence. Gunpowder, how to be kept

(2) No person shall sell gunpowder, or permit gunpowder to be sold in his house, storehouse or shop, outhouse or other building, at night, under a fine of \$10 for the first offence, and of \$20 for every subsequent offence. R.S.O. 1960, c. 249, s. 510. Not to be sold at night

NUISANCES

491. No person shall throw, or cause to be thrown, any filth or rubbish into a street, lane or public place, under a fine of \$1, and a further fine of \$2 for every week for which he neglects or refuses to remove the same after being notified to do so by the inspecting trustee or by some other person authorized by him. R.S.O. 1960, c. 249, s. 511. Certain nuisances prohibited

PROSECUTIONS

492.—(1) It is the duty of the trustees to see that the provisions of sections 489, 490 and 491 are not contravened, and that offenders are prosecuted for beaches of them. Trustees required to prosecute offenders

(2) Any trustee who wilfully neglects or omits to prosecute an offender against any of the provisions of sections 489, 490 or 491, when requested so to do by a resident householder of the village who offers to adduce proof of the offence, and a trustee who wilfully neglects or omits to fulfil any other duty imposed on him by this Part, is liable to a fine of \$5. R.S.O. 1960, c. 249, s. 512. Penalty for neglect to prosecute

493. The fines imposed by or under the authority of this Part are recoverable under *The Summary Convictions Act*, all of the provisions of which apply except that proceedings for the recovery of fines for contraventions of sections 489 to 492 shall be commenced within ten days after the commission of the offence or, if it is a continuing offence, within ten days after it has ceased and not afterwards. R.S.O. 1960, c. 249, s. 513. Fines, how recoverable R.S.O. 1970, c. 450

INCORPORATION OF TRUSTEES

494. Where the trustees of a police village have heretofore been created a body corporate, the corporation is hereby continued under its present name until dissolved. 1965, c. 77, s. 36. Present corporation continued

495.—(1) At its first meeting in each year, the board shall appoint one of its members to be the chairman, and shall also appoint a secretary. Appointment of chairman and secretary

(2) The chairman shall, if present, preside at all meetings of the board and in his absence the board shall appoint one of its Presiding officer

members to act as chairman during such absence. R.S.O. 1960, c. 249, s. 515.

Authentica-
tion of
by-laws

496.—(1) The by-laws of the board shall be signed by the chairman or acting chairman and shall be sealed with its seal.

Proof of
by-laws

(2) The provisions of this Act as to the proof of by-laws of a council apply to the by-laws of the board. R.S.O. 1960, c. 249, s. 516.

Repair and
maintenance
of improve-
ments and
works

497. The expenses of repairing and maintaining all works, improvements and services undertaken by the board under the authority of this Act shall be borne by the board, and such expenses shall be levied and collected by the councils of the townships on the requisition in writing of the board, in like manner as the money to be levied as provided by section 475. R.S.O. 1960, c. 249, s. 517.

Remedy over
of township
against
board for
damages
occasioned
by non-
repair

498.—(1) If the board makes default in maintaining and keeping in repair any such work, and the corporation of a township becomes liable under section 427 for damages suffered by or occasioned to any person in consequence of such default, the corporation is entitled to the remedy over against the board provided for by section 434.

Special rate
for collection
of amount of
damages

(2) The amount required to satisfy the liability of the board shall be levied and collected by a special rate on the rateable property in the village, and it is the duty of the board to make a requisition in writing to the council of the township to levy and collect the same.

Apportion-
ment of
special rate

(3) Where a village comprises parts of two or more townships, the special rate shall be apportioned between the townships in the manner provided by section 477, and shall be levied and collected by the councils thereof in accordance with the requisition of the board. R.S.O. 1960, c. 249, s. 518.

Power to
construct
water, light,
heat, power
and gas
works

499.—(1) The board has the like powers as the council of a village for constructing, purchasing, improving, extending, maintaining, managing and conducting water, light, heat, power and gas works.

Copy of
by-law to be
filed with
township
clerk

(2) A copy of every by-law passed under the authority of subsection 1 shall be filed with the clerk of every township in which any part of the village is situate.

Special rates

(3) Where the village is situate in one township, the council of that township shall levy and collect the amount required to be raised under any such by-law by a special annual rate upon the rateable property in the village, and, where the village comprises parts of two or more townships, the council of each township shall

levy and collect the proportion of the amount to be raised by it by a special annual rate on the rateable property in that part of the village situate in such township.

(4) The proportion to be raised by each township shall be determined under section 477. Proportion of each township

(5) Where it is necessary to issue debentures for any of the purposes of this section, the township or townships in which the village is situate may issue debentures for its due proportion to be determined as aforesaid. R.S.O. 1960, c. 249, s. 519. Issue of debentures

500.—(1) The powers expressly conferred on boards of trustees of police villages are in addition to the powers conferred by this Part on trustees of a police village and, except where other provision is made by this Part with respect to such boards, all the provisions of this Part relating to trustees of police villages apply to such boards. Board to have all powers of trustees of a police village

(2) Sections 466, 468 and 469 apply *mutatis mutandis* to by-laws passed under the authority of this Part by a board of trustees of a police village. R.S.O. 1960, c. 249, s. 520. Power to impose fines, etc.

PART XXIII

IMPROVEMENT DISTRICTS

501.—(1) Every improvement district is subject to Part III of *The Department of Municipal Affairs Act*. R.S.O. 1960, c. 249, s. 521. R.S.O. 1970, c. 118, Part III, to apply

(2) Notwithstanding subsection 2 of section 30 of *The Department of Municipal Affairs Act*, where a local board as defined in that Act exercises any power or jurisdiction in another municipality or in territory without municipal organization as well as in an improvement district, such local board is not by reason only of subsection 1 subject to Part III of *The Department of Municipal Affairs Act*. 1968-69, c. 74, s. 30. Saving

502.—(1) Every improvement district shall be deemed to be for all purposes of every Act a township municipality, a village municipality or a town municipality as may be designated from time to time by the Municipal Board, except that its powers instead of being exercised by a council shall be exercised by a board of three or five trustees appointed and designated as chairman, vice-chairman and member by the Lieutenant Governor in Council. R.S.O. 1960, c. 249, s. 522 (1); 1970, c. 135, s. 9 (1). Nature and status

(2) The trustees appointed under subsection 1 shall be deemed to be members of a council under sections 388 and 389, and the Remuneration of trustees

chairman shall be deemed to be a head of a council under section 211. 1965, c. 77, s. 37.

Special
provision
re trustees

(3) Where, in an improvement district, a secondary school district is established and a separate school is maintained, one of the trustees appointed under subsection 1 shall be a separate school supporter. R.S.O. 1960, c. 249, s. 522 (2).

Quorum

(4) A majority of the members of the board form a quorum. R.S.O. 1960, c. 249, s. 522 (3); 1970, c. 135, s. 9 (2).

Vacancies

(5) If a vacancy occurs on the board through death, resignation or otherwise, the vacancy may be filled and the members redesignated by the Lieutenant Governor in Council. R.S.O. 1960, c. 249, s. 522 (4).

Board
deemed to be
local board

R.S.O. 1970,
c. 118

(6) Except where otherwise provided by the Municipal Board, the members of the board, with respect to the improvement district, shall be the members of every local board within the meaning of *The Department of Municipal Affairs Act*, except a local board of health, a separate school board, a divisional board of education, or a board of a township school area that includes the whole or part of another municipality or territory without municipal organization. 1966, c. 93, s. 37; 1968, c. 76, s. 30.

Chairman

(7) The chairman of the board, with respect to the improvement district, has the powers and shall perform the duties of a mayor or reeve and the chairman of every local board of which the members are the members of the board of trustees and, when the improvement district forms part of a county for municipal purposes, he is a member of the county council.

Vice-
chairman

(8) The vice-chairman of the board, during the absence of the chairman through illness or otherwise or if the office of chairman is vacant, has all the powers and shall perform the duties of the chairman except that he shall not act in the place of the chairman on a county council. R.S.O. 1960, c. 249, s. 522 (6, 7).

Secretary-
treasurer

(9) The board shall appoint a secretary-treasurer who may be a member of the board, who shall hold office during pleasure and, with respect to the improvement district, has the powers and shall perform the duties of,

(a) the clerk, treasurer and collector of a municipality; and

(b) the secretary and treasurer of every local board of which the members are the members of the board of trustees. 1967, c. 55, s. 21, *amended*.

Secretary-
treasurer
eligible as
member of
county
council

(10) Where the secretary-treasurer is the chairman of the board, he is eligible to sit and vote as a member of the county council and clause *e* of subsection 1 of section 36 does not apply. R.S.O. 1960, c. 249, s. 522 (9).

503. Every improvement district may,

- (a) acquire and hold land within the improvement district for development purposes;
- (b) survey, clear, grade and subdivide such land;
- (c) undertake with respect to such land any undertaking, work, project, scheme, act, matter or thing that may be undertaken by a municipality under any Act;
- (d) sell, lease or otherwise dispose of such land; and
- (e) borrow money upon debentures for any of the purposes mentioned in clauses *a* to *d*. R.S.O. 1960, c. 249, s. 524.

Acquisition
of land for
development

PART XXIV

MUNICIPAL TAXES

504. All municipal, local or direct taxes or rates shall, where no other express provision is made, be levied upon the whole of the assessment for real property, business or other assessments made under *The Assessment Act*, according to the amounts assessed in respect thereof, and not upon any one or more kinds of property or assessment or in different proportions. 1968-69, c. 74, s. 31, *part*.

All taxes to
be levied
equally upon
all assess-
ments
R.S.O. 1970,
c. 32

505.—(1) Notwithstanding section 504, where taxes in a municipality on any lands in the municipality increase in any year in an amount exceeding 10 per cent of the taxes imposed on such lands in the preceding year, based on the same expenditures on which the levy was made in the preceding year, as a result of a different assessment generally of lands in the municipality, the municipality may apply to the Minister to be designated as a municipality to which this section applies.

Limiting
increase
in taxes
following
change in
assessment
basis

(2) The council of a municipality designated under subsection 1 may pass a by-law, By-law

- (a) which shall set forth the amount of the increase or decrease in taxation on each separately assessed parcel of rateable property in the municipality resulting from the assessment and expenditures mentioned in subsection 1;
- (b) which shall limit the amount of the increases exceeding \$50 in taxation mentioned in clause *a* in the taxes to be levied in each year during a period of not more than five years;
- (c) which shall provide that the total amount of the reduction in taxes resulting from the provision in the by-law authorized by clause *b* be raised by reducing the amount of the decreases in taxation mentioned in clause *a* or by

charging it in whole or in part to the general funds of the municipality or by a combination of both.

Where
change in
use or
character

(3) When there has been a change in the use or character of any land which, in the opinion of the council, makes any limitation of the increase in taxation of such land under subsection 2 inappropriate, the council may by by-law exclude such land from the application of the by-law passed under subsection 2.

Repeal of
by-law

(4) The Minister may order that any by-law passed under this section is no longer effective after a date specified in the order, which date may be retroactive. 1970, c. 56, s. 1.

Rateable
property,
what to
include

506. Where, in this or any other general or special Act or in any by-law passed under any such Act, the yearly rates or any special rate are expressly or in effect directed or authorized to be levied upon all the rateable property of a municipality for municipal or school purposes, such rates shall be calculated at so much in the dollar upon the total assessment of the municipality and shall be calculated and levied upon the whole of the assessment for real property, business or other assessment made under *The Assessment Act*. 1968-69, c. 74, s. 31, *part*.

R.S.O. 1970,
c. 32

County
councils to
apportion
sums
required
for county
purposes

507. Where a sum is to be levied for county purposes, or by the county for the purposes of a particular locality, the council of the county shall ascertain, and by by-law direct, what portions of such sum shall be levied in each township, town or village in such county or locality. 1968-69, c. 74, s. 31, *part*.

County clerk
to certify
amounts to
clerks of
municipalities

508. The county clerk shall forthwith after the county rates have been apportioned certify to the clerk of each municipality in the county the total amount that has been so directed to be levied therein for the then current year for county purposes or for the purposes of any such locality, and the clerk of the municipality shall calculate and insert the same in the collector's roll for that year. 1968-69, c. 74, s. 31, *part*.

Act not to
affect pro-
visions for
rates to
raise
interest on
county
debentures

509. Nothing in this Act or in *The Assessment Act* alters or invalidates any special provisions for the collection of a rate for interest on county debentures in any general or special Act or in any county by-law providing for the issue of debentures. 1968-69, c. 74, s. 31, *part*.

County rate

510.—(1) Notwithstanding any other provision in this Act or any other special or general Act, the imposition or levy by a county council of any rate for county purposes shall be made and raised upon and from the assessment of real property and business assessments as equalized in the county.

Local muni-
cipality to
levy county
rates on all
rateable
property

(2) When under this Act or any other special or general Act any rate is directed or required to be levied in a local municipality

forming part of a county for county purposes, the rate shall in the local municipality be calculated and levied upon and against the whole rateable property including business assessments within such local municipality according to the last revised assessment roll thereof. 1968-69, c. 74, s. 31, *part*.

511. The taxes due upon any land with costs may be recovered with interest as a debt due to the municipality from the owner or tenant originally assessed therefor and from any subsequent owner of the whole or any part thereof, saving his recourse against any other person, and are a special lien on the land in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority are not lost or impaired by any neglect, omission or error of the municipality or of any agent or officer, or by want of registration. 1968-69, c. 74, s. 31, *part*.

Who liable
for taxes,
lien on
lands

512.—(1) The taxes payable by any person may be recovered with interest and costs as a debt due to the municipality, in which case the production of a copy of so much of the collector's roll as relates to the taxes payable by such person, purporting to be certified as a true copy by the clerk of the municipality, is *prima facie* evidence of the debt.

Recovery
of taxes
by action

(2) Notwithstanding any other provision in this Act and subject to section 76 of *The Assessment Act*, every person assessed in respect of business upon any assessment roll that has been revised by the Assessment Review Court or county judge is liable for any rates that may be levied upon such assessment roll notwithstanding the death or removal from the municipality of the person assessed and notwithstanding that such rates are not levied until the year following that in which the assessment roll was revised. 1968-69, c. 74, s. 31, *part*.

Liability for
taxes on
business in
case of
death or
change of
residence
R.S.O. 1970,
c. 32

513. Where taxes are due upon any land occupied by a tenant, the collector or, after the roll has been returned, the treasurer, may give the tenant notice in writing requiring him to pay such collector or treasurer the rent of the premises as it becomes due from time to time to the amount of the taxes due and unpaid and costs, and the collector or treasurer has the same authority as the landlord of the premises would have to collect the rent by distress or otherwise to the amount of the unpaid taxes and costs; but nothing in this section prevents or impairs any other remedy for the recovery of the taxes or any portion thereof from the tenant or from any other person liable therefor. 1968-69, c. 74, s. 31, *part*.

Paying rent
to collector
or treasurer
until taxes
paid

514. Any tenant may deduct from his rent any taxes paid by him that as between him and his landlord the latter ought to pay. 1968-69, c. 74, s. 31, *part*.

When tenant
may deduct
taxes from
rent

Provincial
taxes

515. All moneys assessed, levied and collected under any Act by which the same are made payable to the Treasurer of Ontario or other public officer for the public uses of Ontario, or for any special purpose or use mentioned in the Act, shall be assessed, levied and collected in the same manner as local rates, and shall be similarly calculated upon the assessments as finally revised, and shall be entered in the collector's rolls in separate columns, in the heading whereof shall be designated the purpose of the rate. 1968-69, c. 74, s. 31, *part*.

Clerks of
municipalities to
make out
collector's
rolls, their
form, con-
tents, etc.
R.S.O. 1970,
c. 32

516.—(1) The clerk of every municipality shall make a collector's roll or rolls, as may be necessary, containing columns for all information required by this or any other Act to be entered by the collector therein, and in such roll or rolls he shall set down the name in full of every person assessed, and in the proper columns in that behalf the amount for which he is assessed in respect of his real property and otherwise under *The Assessment Act* as ascertained after the final revision of the assessment roll, and he shall calculate and, opposite the assessed value, he shall set down in one column to be headed "*County Rates*" the amount for which the person is chargeable for any sums ordered to be levied by the council of the county for county purposes, and in another column to be headed "*General Rate*" the amount with which the person is chargeable in respect of sums ordered to be levied by the council of the municipality for the purposes thereof, and including any special rate for collecting the principal or interest for the payment of debentures issued, and in other columns any local improvement rate or school rate or other special rate, or sums for the commutation of statute labour or any sum that is required by any other Act to be placed on the collector's roll the proceeds of which are required by law or by the by-law imposing it to be kept distinct and accounted for separately, and every such last-mentioned rate shall be calculated separately and the column therefore shall be headed "*Special Rate*," "*Local Improvement Rate*," "*Public School Rate*," "*Separate School Rate*," or "*Special Rate for School Debts*", or as the case may be.

Preparation
of collector's
roll
R.S.O. 1970,
cc. 385, 430

(2) Notwithstanding subsection 1 or *The Public Schools Act* or *The Separate Schools Act*, the council of any municipality may by by-law provide that the clerk shall set down the name in full of every person assessed and the assessed value of his real property and taxable business, as ascertained after the final revision of the assessment roll, and opposite such assessed value he shall set down in a column for that purpose the total amount for which the person is chargeable for all sums ordered to be levied by the council or school boards for the purposes thereof.

Collector's
roll,
mechanical
methods

(3) The form of the collector's roll may be varied to facilitate the use of,

- (a) mechanical methods in the preparation of the roll;
- (b) mechanical methods of accounting and bookkeeping and, where the methods in this clause are used, the treasurer may exercise the powers and perform the duties of the collector and the clerk in respect of the roll.

(4) Appended to every roll made up under subsection 2 there shall also be a table setting forth,

Information to be given in tables appended to rolls

- (a) the total amount of taxes to be collected under and by virtue of such roll or rolls; and
- (b) the name and amount of each rate levied by the municipality that is required by law or by the by-law imposing it to be kept distinct and accounted for separately and specifying the aggregate proceeds of each rate,

and the clerk shall, before delivering the roll to the collector, furnish to the treasurer of the municipality a copy of the table.

(5) Notwithstanding any other provision in this Act or any other Act, the council of any local municipality may by by-law provide that the clerk shall not enter on any collectors' roll the name of any tenant or lessee unless such tenant or lessee is required by the terms of his lease to pay the taxes or where the owner is not liable to pay the taxes. 1968-69, c. 74, s. 31, *part, amended.*

Certain names to be omitted from collector's roll

517.—(1) The council of any municipality may by by-law provide that where the sum of the taxes for which any person is chargeable in any year for municipal, school, local improvement and other purposes, upon any real property assessed in one parcel to the same owner would according to the assessment thereon be less than \$6, the sum of such taxes shall be deemed to be \$6 and shall be so entered on the collector's roll, and the difference between the sum that would have been entered but for this section and the sum of \$6 shall form part of the general funds of the municipality.

Minimum tax

(2) Where, immediately prior to the passing of a by-law by any municipality under subsection 1, lots therein owned by the same person were assessed together under paragraph 3 of subsection 2 of section 17 of *The Assessment Act*, such lots shall continue to be so assessed as long as they all remain the property of that person, provided that nothing in this subsection shall be deemed to apply to the amount at which such lots may be assessed.

Existing combined assessments to be continued R.S.O. 1970, c. 32

(3) Where, at any time after the passing of a by-law by any municipality under subsection 1, lots therein that adjoin one another are shown on the same registered plan and are owned by the same person, he may by notice in writing to the assessment

Requirement for combined assessment

commissioner require that such lots shall thereafter be assessed as one parcel and at one total amount of assessment during such time as he continues to be the owner. 1968-69, c. 74, s. 31, *part*.

Collector's
roll to be
certified by
clerk

518. The clerk shall attach to the roll a certificate signed by him according to the following form:

I do certify that the within (*or annexed, or attached, or as the case may be*) Roll is the Collector's Roll prepared according to the provisions of *The Municipal Act* for the.....
.....of.....
.....(*name of municipality*)
for the year 19.....

A.B.

Clerk of the.....

and shall deliver the roll so certified to the collector on or before the 1st day of September, or such earlier date as may be prescribed by by-law of the municipality. 1968-69, c. 74, s. 31, *part*.

Correction
of roll to
carry out
changes in
assessment
R.S.O. 1970,
c. 32

519. If alterations are made in the assessment roll, in accordance with the provisions of *The Assessment Act*, after the collector's roll or rolls for the municipality for the year for which such assessment has been made have been prepared, the clerk of the municipality shall alter or amend the collector's roll or rolls to correspond with such alterations, and insert the proper rates therefor, and the rates or taxes shall be collectable in accordance with such corrected rolls in the same manner and with the like remedies as if they had been in the rolls when first prepared and certified by the clerk of the municipality. 1968-69, c. 74, s. 31, *part*.

Duties of
collectors

520. The collector, upon receiving his roll, shall proceed to collect the taxes therein mentioned. 1968-69, c. 74, s. 31, *part*.

Notice of
taxes by
collector

521.—(1) In cities, towns, villages and townships, the collector shall give to the person taxed a written or printed notice specifying the amount of the taxes payable by him by delivering the notice or causing it to be delivered to him or for him at his residence or place of business or upon the premises in respect of which the taxes are payable, and may call on the person taxed at his usual residence or place of business if within the municipality in and for which the collector has been appointed and demand payment of the taxes.

How may
be given

(2) In cities, towns, villages and townships, the council may by by-law authorize the collector, clerk or treasurer to mail the notice or cause it to be mailed to the address of the residence or place of business of such person.

(3) The written or printed notice above mentioned shall have written or printed thereon or attached thereto a schedule specifying the different rates and the total thereof used in calculating the taxes referred to in the notice and also containing the information required to be entered in the collector's roll under section 516. 1968-69, c. 74, s. 31, *part*.

Particulars
in tax
notice

522.—(1) The collector shall at the time of such demand or notice, as the case may be, or immediately thereafter, enter or cause to be entered on his roll opposite the name of the person taxed the date of such demand or of the delivery or mailing of the notice.

Entry of
date of
giving
notice

(2) Every person so entering any such date shall append his initials thereto, and the entry is *prima facie* evidence of such demand or notice. 1968-69, c. 74, s. 31, *part*.

Initials to
entries

523. If any person whose name appears on the roll is not resident within the municipality, the collector shall transmit to him by mail, addressed in accordance with the notice given by such non-resident, if notice has been given, a statement and demand of the taxes charged against him in the roll, and shall at the time of such transmission enter or cause to be entered the date thereof in the roll opposite the name of such person, and the entry is *prima facie* evidence of the transmission and of the time thereof, and the statement and demand shall contain, written or printed on some part thereof, the name and post office address of the collector. 1968-69, c. 74, s. 31, *part*.

Proceedings
in case of
non-
residents

524.—(1) Instead of entering on the roll the date of the demand or of the delivery or mailing of the notice as required by sections 522 and 523, the collector may, at the time of such demand or notice, as the case may be, or immediately thereafter, make one or more certificates to be attached to the roll or to any part of the roll certifying the date or dates upon which the demands or notices in the roll or in the part were made, delivered or mailed.

Certificates
re dates of
delivering
notices

(2) Any such certificate is *prima facie* evidence of the making, delivery or mailing of such demand or notice. 1968-69, c. 74, s. 31, *part*.

Evidence

525. Where a person assessed furnishes the clerk with a notice in writing giving the address to which the notice of taxes may be delivered to him and requesting that the notice be delivered to such address by registered mail, the notice shall be so delivered by the collector who shall add the cost of the registration to the taxes, and such notice shall stand until revoked in writing. 1968-69, c. 74, s. 31, *part*.

Notice of
address for
tax bills

Certificate
re current
taxes

526. After taxes have been levied in any year, the collector shall upon demand give a certificate with respect to any assessment for real property or business assessment indicating that the taxes for the current year have been levied, the amount of the taxes and whether or not all or any part of such taxes have been paid. 1968-69, c. 74, s. 31, *part*.

By-laws
requiring
taxes to be
paid into
office of
treasurer or
collector

Payments
by instal-
ments

527.—(1) In cities, towns, villages and townships, the council may by by-law require the payment of taxes, including local improvement assessments, sewer rents and rates, and of other rents or rates payable as taxes, to be made into the office of the treasurer or collector by any day or days to be named therein, in bulk or by instalments, and may provide that on the punctual payment of any instalment the time for payment of the remaining instalment or instalments shall be extended to a day or days to be named, or may provide that in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable.

Crown
property

(2) A by-law under subsection 1 may contain provisions with respect to the payment of taxes by tenants of lands owned by the Crown or in which the Crown has an interest, in which case the by-law shall provide that, where any such tenant has been employed either within or outside the municipality by the same employer for not less than thirty days, such employer shall pay over to the treasurer or collector on demand out of any wages, salary or other remuneration due to such employee the amount then payable for taxes under the by-law and such payment relieves the employer from any liability to the employee for the amount so paid.

Penalty
for non-
payment
of taxes

(3) The council may by by-law impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding 1 per cent on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the taxes are levied.

Idem

(4) In any municipality in which a by-law has not been passed under subsection 3, the council may by by-law impose a penalty not exceeding 4 per cent on all taxes of the current year remaining unpaid on the first day of default after the 15th day of September of the year in which the taxes are levied.

Discount or
interest on
payments
in advance

(5) The council may by by-law authorize the treasurer or collector to receive in any year payments on account of taxes for that year in advance of the day that may be fixed by by-law for the payment of any instalment of such taxes and,

(a) to allow a discount on any taxes so paid in advance at a rate not exceeding 8 per cent per annum and may allow

interest at a rate not exceeding 8 per cent per annum on account of taxes so paid in advance for any portion of the period for which no discount is allowed; or

- (b) to allow interest on taxes paid in advance of the day fixed by by-law for the payment of any instalment of such taxes at a rate not exceeding 8 per cent per annum,

notwithstanding that the taxes for such year have not been levied or that the assessment roll on which such taxes are to be fixed and levied has not been revised and certified by the Assessment Review Court when any such advance payment is made, and a by-law passed under this subsection remains in force from year to year until it is repealed or amended.

(6) If a by-law is passed providing for payment by instalments or allowing any such discount or imposing any such additional percentage charge, a notice shall be given in accordance with section 521 on which shall be written or printed a concise statement of the time and manner of payment and of the discount allowed or the percentage charge imposed, if any, and at any time within fourteen days after such notice has first been given, in accordance with section 521, any person may take advantage of the provisions of such by-law as to payment by instalments or with the discount allowed thereby, or without the additional percentage charge imposed thereby, as the case may be.

Notice as
to time and
mode of
payment

(7) Where, in accordance with this section, a percentage is added to unpaid taxes, the by-laws shall not be repealed before the return of the collector's roll.

By-law to be
in force until
return of
collector's
roll

(8) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be paid by the collector of taxes or by the person charged with the payment thereof into such chartered bank of Canada, trust company or Province of Ontario Savings Office as the council shall by such by-law direct, to the credit of the treasurer of the municipality, and in such case the person making the payment shall obtain a receipt therefor, and the treasurer or collector of taxes shall make the proper entries therefor in the books of the municipality.

Provision
for payment
of taxes
into bank,
etc.

(9) The council of any municipality may by by-law authorize the treasurer and the collector of taxes to accept part payment from time to time on account of any taxes due and to give a receipt for such part payment, provided that acceptance of any such part payment does not affect the collection of any percentage charge imposed and collectable under subsection 3 in respect of non-payment of any taxes or any class of taxes or of any instalment thereof.

By-law to
authorize
part pay-
ment of
taxes due

Disposition
of part
payment of
taxes

(10) Where the treasurer or the collector of taxes receives part payment on account of taxes due for any year, he shall credit such part payment first on account of the interest and percentage charges, if any, added to such taxes.

Payment of
instalments
in areas

(11) The council of any municipality may by by-law divide the municipality into separate areas for the purposes of this Act, and in any by-law providing for the payment of taxes by instalments may for every such area name a different day within a fixed period of time for the payment of any instalment. 1968-69, c. 74, s. 31, *part.*

Distress and
sale for
taxes that
are a charge
on land

528.—(1) Subject to section 527, if taxes that are a lien on land remain unpaid for fourteen days after demand or notice made or given pursuant to section 521, 523 or 527, the collector or, where there is no collector, the treasurer may by himself or his agent, subject to the exemptions and provisos hereafter mentioned in this section, levy them with costs by distress,

- (a) upon the goods and chattels, wherever found within the county in which the municipality lies, belonging to or in the possession of the owner or tenant of the land whose name appears upon the collector's roll (who is herein-after called "the person taxed");
- (b) upon the interest of the person taxed in any goods on the land, including his interest in any goods to the possession of which he is entitled under a contract for purchase or a contract by which he may or is to become the owner thereof upon performance of any condition;
- (c) upon the goods and chattels of the owner of the land found thereon, though his name does not appear upon the roll;
- (d) upon any goods and chattels on the land, where title to such goods and chattels is claimed in any of the following ways:
 - (i) by virtue of an execution against the person taxed or against the owner, though his name does not appear on the roll,
 - (ii) by purchase, gift, transfer or assignment from the person taxed, or from such owner, whether absolute or in trust, or by way of mortgage, or otherwise,
 - (iii) by the wife, husband, daughter, son, daughter-in-law or son-in-law of the person taxed, or of such owner, or by any relative of his, in case such relative lives on the land as a member of the family,
 - (iv) by virtue of any assignment or transfer made for the purpose of defeating distress,

provided that, where the person taxed or such owner is not in possession, goods and chattels on the land not belonging to the person taxed or to such owner are not subject to seizure, and the possession by the tenant of such goods and chattels on the premises is sufficient *prima facie* evidence that they belong to him; provided also that no distress shall be made upon the goods and chattels of a tenant for any taxes not originally assessed against him as such tenant; provided also that in cities and towns no distress for taxes in respect of vacant land shall be made upon goods or chattels of the owner except upon the land.

(2) Subject to section 527, in case of taxes that are not a lien on land remaining unpaid for fourteen days after demand or notice made or given pursuant to section 521, 523 or 527, the collector or, where there is no collector, the treasurer may by himself or his agent, subject to the exemptions provided for in subsection 4, levy them with costs by distress,

Distress for
taxes not a
lien on land

- (a) upon the goods and chattels of the person taxed wherever found within the county in which the municipality lies for judicial purposes;
- (b) upon the interest of the person taxed in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;
- (c) upon any goods and chattels in the possession of the person taxed where title to them is claimed in any of the ways defined by subclauses i to iv of clause d of subsection 1, and in applying such subclauses they shall be read with the words "or against the owner though his name does not appear on the roll" and the words "or such owner" and the words "on the land" omitted therefrom;
- (d) upon goods and chattels that at the time of making the assessment were the property and on the premises of the person taxed in respect of business assessment and at the time for collection of taxes are still on the same premises, notwithstanding that such goods and chattels are no longer the property of the person taxed.

(3) Notwithstanding subsections 1 and 2, no goods that are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the goods or of selling the goods upon commission or as agent shall be levied upon or sold for such taxes, and provided that goods in the hands of an assignee for the benefit of creditors or in the hands of a liquidator under a winding-up order are liable only for the taxes of the assignor or of the company that is being wound up, and for the taxes upon the premises in which the goods were at the time of the assignment or

Case of
goods in
possession
of ware-
houseman,
assignee or
liquidator

winding-up order, and thereafter while the assignee or liquidator occupies the premises or while the goods remain thereon.

Goods
exempt from
distress

(4) The goods and chattels exempt by law from seizure under execution are not liable to seizure by distress.

Exemption
to be
claimed

(5) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption.

Levy of
taxes under
warrant

(6) If at any time after demand has been made or notice given pursuant to section 521, 523 or 527, and before the expiry of the time for payment of the taxes, the collector or, where there is no collector, the treasurer has good reason to believe that any person in whose hands goods and chattels are subject to distress under the preceding provisions is about to remove such goods and chattels out of the municipality before such time has expired and makes affidavit to that effect before the mayor or reeve of the municipality or before any justice of the peace, the mayor, reeve or justice shall issue a warrant to the collector or treasurer authorizing him to levy for the taxes and costs in the manner provided by this Act although the time for payment thereof may not have expired, and the collector or treasurer may levy accordingly.

City

(7) A city shall for the purposes of this section be deemed to be within the county of which it forms judicially a part.

Costs

R.S.O. 1970,
c. 439

(8) The costs chargeable in respect of any such distress and levy are those payable to bailiffs under *The Small Claims Courts Act*.

Prohibition

(9) No person shall make a charge for anything in connection with any such distress or levy unless such thing has been actually done.

Penalty

R.S.O. 1970,
c. 92

(10) In case any person offends against the provisions of subsection 9 or levies any greater sum for costs than is authorized by subsection 8, the like proceedings may be taken against him by the person aggrieved as may be taken by the party aggrieved in the cases provided for by sections 2, 4 and 5 of *The Costs of Distress Act*.

Notice of
taxes where
goods under
seizure

(11) Where personal property liable to seizure for taxes as hereinbefore provided is under seizure or attachment or has been seized by the sheriff or by a bailiff of any court or is claimed by or in possession of any assignee for the benefit of creditors or liquidator or of any trustee or authorized trustee in bankruptcy or where such property has been converted into cash and is undistributed, it is sufficient for the tax collector to give to the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy notice of the amount due for taxes, and in such case the sheriff, bailiff, assignee or liquidator or trustee or authorized

trustee in bankruptcy shall pay the amount to the collector in preference and priority to any other and all other fees, charges, liens or claims whatsoever.

(12) Where the person making any such distress and levy is a salaried employee of the municipal corporation, the costs in respect of such distress and levy belong to the corporation. 1968-69, c. 74, s. 31, *part*. Costs of distress, when to belong to corporation

529. No defect, error or omission in the form or substance of the notice required by section 521, 523 or 527 invalidates any subsequent proceedings for the recovery of the taxes. 1968-69, c. 74, s. 31, *part*. Informalities not to invalidate subsequent proceedings

530. The collector or his agent, by advertisement posted up in at least three public places in the municipality or where there are wards in the ward wherein the sale of goods and chattels distrained is to be made, shall give at least six days notice of the time and place of the sale, and of the name of the person whose property is to be sold, and, at the time named in the notice, the collector or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to realize the amount of the taxes and costs. 1968-69, c. 74, s. 31, *part*. Public notice of sale

531. If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the person in whose possession the property was when the distress was made. 1968-69, c. 74, s. 31, *part*. Surplus, if unclaimed, to be paid to party in whose possession the goods were

532. If such claim is made by the person for whose taxes the property was distrained and the claim is admitted, the surplus shall be paid to the claimant. 1968-69, c. 74, s. 31, *part*. Surplus to admitted claimant

533. If the claim is contested, such surplus shall be paid by the collector to the treasurer of the municipality, who shall retain it until the respective rights of the parties have been determined by action or otherwise. 1968-69, c. 74, s. 31, *part*. When the right to surplus contested

534.—(1) Subject to subsection 2, every collector shall return his roll to the treasurer on or before the 28th day of February in the year next following the year in which the taxes were levied, or on such earlier date in that year as the council may appoint. Dates for return of collector's roll

(2) The council of every city may by by-law fix the times for the return of the collector's rolls, and may make any enlargements of the time so fixed. In cities

Collectors' interim returns in cities, towns and villages

(3) The collector of every city, town and village shall, until the final return of the roll, pay over to the treasurer of the city, town or village the amount of his collection once every week or more often if the council by by-law so requires.

Collectors' interim returns in townships

(4) The collector of every township shall, until the final return of the roll, pay over to the treasurer of the township the amount of his collections once every two weeks or more often if the council by by-law so requires.

Audit of collector's roll

(5) Every collector, on the request of the treasurer, shall deliver his roll, together with an account of all collections made, to the treasurer to be audited. 1968-69, c. 74, s. 31, *part*.

Oath of collector on returning roll

535.—(1) At or before the return of his roll, every collector shall make oath in writing that the date of every demand of payment or notice of taxes required by sections 521 to 527, and every transmission of statement and demand of taxes required by section 523 entered by him in the roll, has been truly stated therein.

Idem

(2) Every other person who has delivered or mailed a notice pursuant to section 521, 523 or 527 shall in like manner at or before the return of the roll make oath that the date of the delivery or mailing of every such notice by him has been truly stated in the roll.

Form of oath, etc.

(3) Every such oath may be according to Form 29 and shall be written on or attached to the roll and may be taken before the treasurer or before any justice of the peace having jurisdiction in the municipality or any commissioner for taking affidavits or any notary public for Ontario. 1968-69, c. 74, s. 31, *part*.

Failure of collector to collect

536.—(1) If the collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed as mentioned in section 534, the council may, by resolution, authorize the collector, or some other person in his stead, to continue the levy and collection of the unpaid taxes in the manner and with powers provided by law for the general levy and collection of taxes.

Duty as to return not affected

(2) No such resolution or authority alters or affects the duty of the collector to return his roll or in any manner invalidates or otherwise affects the liability of the collector or his sureties. 1968-69, c. 74, s. 31, *part*.

Proceedings when taxes unpaid

537.—(1) The treasurer shall, upon receiving the roll returned under section 534, mail or cause to be delivered a notice to each person appearing on the roll with respect to whose land any taxes appear to be in arrear for that year.

(2) When the auditor gives a verification notice to each person mentioned in subsection 1, the treasurer is not obligated to comply with subsection 1. 1968-69, c. 74, s. 31, *part*.

Verification
notice

ARREARS OF TAXES

538.—(1) In cases in which the county treasurer is required to collect arrears of taxes of a township or village, the treasurer of the township or village, as the case may be, shall within thirty days after the time appointed for the return and final settlement of the collector's roll in every year furnish the county treasurer with a statement of all unpaid taxes and school rates directed in the collector's roll or by school trustees to be collected.

Statement
to be
furnished
to county
treasurer

(2) Such statement shall contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, and of arrears of taxes paid, and the county treasurer is not bound to receive any such statement after the 7th day of April in each year.

Contents of
statement

(3) The treasurer in such statement and both he and all other officers of the municipality shall from time to time furnish to the county treasurer such other information as the county treasurer may require and demand in order to enable him to ascertain the just tax chargeable upon any land in the municipality for that year. 1968-69, c. 74, s. 31, *part*.

Other
information

539. If two or more municipalities, having been united for municipal purposes, are afterwards disunited, or if a municipality or part of a municipality is afterwards added to or detached from any county, or to or from any other municipality, the county or other treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date of the alteration, shall be placed to the credit of the municipality within which the land after such alteration is situate. 1968-69, c. 74, s. 31, *part*.

Municipalities
united and
afterwards
disunited,
etc.

540. The county or other treasurer shall not be required to keep a separate account of the several distinct rates that may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land. 1968-69, c. 74, s. 31, *part*.

All arrears
to form one
charge upon
lands

541.—(1) After the collector's roll has been returned to the treasurer of a township or village, and before such treasurer has furnished to the county treasurer the statement mentioned in section 538, arrears of taxes may be paid to such local treasurer; but, after such statement has been returned to the county treasurer, no more money on account of the arrears then due shall be received by any officer of the municipality to which the roll relates.

After return
of roll, who
to receive
taxes

Collection of arrears to belong to county treasurer only

(2) The collection of arrears thenceforth belong to the treasurer of the county alone, and he shall receive payment of such arrears, and he shall give a receipt therefor, specifying the amount paid, for what period, the description of the lot or parcel of land, and the date of payment, in accordance with the provisions of section 550. 1968-69, c. 74, s. 31, *part*.

Receiving payments on account of arrears

542. The county treasurer and the treasurer of any municipality whose officers have power to sell lands for arrears of taxes may from time to time receive part payment of taxes returned to him as in arrears upon any land for any year and shall credit such payment first on account of the interest and percentage charges, if any, added to such taxes; but no such payment shall be received after a warrant has issued for the sale of the land for taxes. 1968-69, c. 74, s. 31, *part*.

Lists of lands three years in arrears for taxes to be furnished to clerks

543.—(1) The treasurer of every county shall furnish to the clerk of each municipality in the county except those whose officers have power to sell lands for arrears of taxes, and the treasurer of every such last-mentioned municipality shall furnish to the clerk of the municipality a list of all the lands in the municipality in respect of which any taxes have been in arrears for the three years next preceding the 1st day of January in any year, and such list shall be so furnished on or before the 1st day of February in every year and shall be headed in the words following: "*List of lands liable to be sold for arrears of taxes in the year 19. . .*"; and, for the purpose of the computation of such three years, the taxes for each year shall be deemed to have been in arrears on and from the 1st day of January in such year.

Treasurer to furnish supplemental list of lands no longer liable to be sold

(2) Where in any year the list referred to in subsection 1 has been furnished to the clerk of a municipality, the treasurer who furnished the list shall not later than the 15th day of September in that year, or such earlier date as the clerk may request in writing, furnish a supplemental list to the clerk showing thereon the lands, if any, included in the earlier list that at the date of the supplemental list are no longer liable to be sold for arrears of taxes. 1968-69, c. 74, s. 31, *part*.

Clerks to keep the lists in their offices open to inspection, give copy to Assessment Commissioner

544.—(1) The clerk of the municipality shall keep the list so furnished by the treasurer on file in his office, subject to the inspection of any person requiring to see it, and he shall also deliver a copy of such list in each year to the Assessment Commissioner, and it is the duty of the Assessment Commissioner to ascertain if any of the lots or parcels of land contained in such lists are incorrectly described and to notify the occupants and owners thereof, if known, whether resident within the municipality or not, upon their respective assessment notices, or otherwise, that the land is liable to be sold for arrears of taxes, and to enter in

a column to be reserved for the purpose the words "*Parties notified*" or "*Incorrectly described*", as the case may be, and all such lists shall be signed by the Assessment Commissioner, verified as provided in subsection 3, and returned to the clerk with the assessment roll, together with a memorandum of any error discovered therein, and the clerk shall compare the entries in the Assessment Commissioner's return with the assessment roll and report any differences to the Assessment Commissioner for verification, and the clerk shall transmit such lists and any such memorandum forthwith to the treasurer of the municipality if the municipality is one whose officers have power to sell lands for arrears of taxes, or in other cases to the county treasurer, and the treasurer in either case shall attach the seal of the corporation to such lists and file them in his office for public use, and every such list or copy thereof shall be received in any court as evidence, in any case arising concerning the assessment of such lands.

(2) Where in any year the clerk of a municipality is furnished with the supplemental list mentioned in subsection 2 of section 543, he shall forthwith deliver a copy thereof to the Assessment Commissioner and after its delivery subsections 1 and 3 cease to apply in respect of the lands shown on the supplemental list.

Assessment Commissioner to be furnished with copy of supplemental list of lands no longer liable to be sold

(3) The Assessment Commissioner shall attach to each such list a certificate signed by him, and verified by oath or affirmation, in the form following:

Assessment Commissioner's certificate

I do certify that I have examined or caused to be examined all the lots in this list named; and that I have entered or caused to be entered the names of all occupants thereon, as well as the names of the owners thereof, when known; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief.

1968-69, c. 74, s. 31, *part.*

545. If, on an examination of the return required under section 544 of lands liable to be sold for taxes, or otherwise, it appears to the treasurer that any land liable to assessment has not been assessed for the current year, he shall report the same to the clerk of the municipality; thereupon, or if the same comes to the knowledge of the clerk in any other manner, the clerk shall proceed as provided in section 42 of *The Assessment Act*. 1968-69, c. 74, s. 31, *part.*

Proceedings where any land is found not to have been assessed

R.S.O. 1970, c. 32

546. Every clerk of a municipality who neglects to preserve the list of lands in arrears for taxes, furnished to him by the treasurer in pursuance of section 543, or to furnish copies of such lists, as required, to the Assessment Commissioner, and every Assessment Commissioner who neglects to examine or cause to be examined the lands entered on his list, and to make or cause to be

Offence for neglect to preserve list of lands in arrears for taxes

made returns in the manner hereinbefore directed, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1968-69, c. 74, s. 31, *part*.

Apportion-
ment of
taxes where
land
assessed
in block

547.—(1) When it is shown to the Assessment Review Court or to the council of a municipality that taxes or rates are or have become due upon land assessed in one block, the Assessment Review Court or council, upon the application by the treasurer of the municipality or by or on behalf of any person claiming to be the owner of one or more parcels of the land, may, after notice of the application to all owners, direct the apportionment of the taxes or rates upon such parcels in proportion to their relative value at the time of the assessment, regard being had to all special circumstances, and the council may direct how any part payment made under section 542 is to be applied, and, upon payment of the apportionment assigned to any parcel, the payment shall be a satisfaction of the taxes or rates thereon, or the Assessment Review Court or the council, as the case may be, may make such other direction as the case may require, and the provision herein contained is retroactive in its operation, but does not apply to any lands that have been advertised for sale for taxes or rates.

Minute of
apportion-
ment for
treasurer

(2) Forthwith after an apportionment has been made, the clerk shall transmit a copy of the minute or resolution to the treasurer, who, upon receipt thereof, shall enter it in his books, and thereafter each lot or other subdivision of the land affected is liable only for the amount of taxes or rates apportioned thereto, and is only liable for sale for non-payment of the tax or rate so apportioned or charged against it. 1968-69, c. 74, s. 31, *part*.

Appeal

548. An appeal may be had to the Municipal Board by any owner or owners from any decision or apportionment made under section 547 and a like appeal may be had by the municipality from a decision or apportionment made by the Assessment Review Court under section 547. 1968-69, c. 74, s. 31, *part*.

Written
statement
of arrears

549.—(1) The treasurer shall, on demand, give a written certified statement of the arrears due on any land, and he may charge \$1 for the search and certified statement on each separate parcel, but he shall not make any charge to any person who forthwith pays the taxes. 1968-69, c. 74, s. 31, *part*.

Idem

(2) A statement given under subsection 1 is binding upon the municipal corporation and the amount charged for the search and statement belongs to the corporation and not to the treasurer. 1970, c. 135, s. 10.

Form

(3) Such certified statement may be according to Form 30. 1968-69, c. 74, s. 31, *part*.

550.—(1) The treasurer of every county shall keep a triplicate blank receipt book and, on receipt of any sum of money for taxes on land, shall deliver to the person making payment one of such receipts, and shall deliver to the treasurer of the local municipality in which the land is situate the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the treasurer of the local municipality at least every three months.

County treasurers, etc., to keep triplicate blank receipt books

(2) The county treasurer shall file such receipts, and, in a book to be kept for that purpose, shall enter the name of the person making payment, the lot on which payment is made, the amount paid, the date of payment and the number of the receipt, and the auditors shall examine and audit such books and accounts at least once in every twelve months.

Filing of receipts

(3) In cities, towns and other municipalities having power to sell lands for non-payment of taxes, the treasurer thereof shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book, and the auditors shall examine and audit such books and accounts at least once in every year. 1968-69, c. 74, s. 31, *part*.

Treasurer to keep duplicate receipt book

551. If any person produces to the treasurer, as evidence of payment of any tax, any paper purporting to be a receipt of a collector, school trustee or other municipal officer, the treasurer is not bound to accept it until he has received a report from the clerk of the municipality interested, certifying the correctness thereof, or until he is otherwise satisfied that such tax has been paid. 1968-69, c. 74, s. 31, *part*.

As to pretended receipt, etc.

552. The treasurer of every county shall keep a separate book for each township and village, in which he shall enter all the lands in the municipality on which it appears, from the returns made to him by the clerk and from the collector's roll returned to him, that there are any taxes unpaid, and the amounts so due, and he shall, on the 15th day of January in every year, complete and balance his books by entering against every parcel of land the arrears, if any, due at the last settlement, and the taxes of the preceding year that remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date. 1968-69, c. 74, s. 31, *part*.

Lands on which taxes unpaid to be entered in certain books by treasurer

553.—(1) Notwithstanding any special Act, the treasurer, collector or county treasurer, as the case may be, shall add to the amount of all taxes due and unpaid interest at the rate of one-half of 1 per cent per month for each month or fraction thereof from the 31st day of December in the year in which the taxes were

Interest on tax arrears

levied until the taxes are paid, provided that the council by by-law may increase such rate to a rate not exceeding 1 per cent per month.

Interest,
etc., not to
be com-
pounded

(2) No interest or percentage added to taxes shall be compounded.

Interest,
etc., to form
part of
taxes

(3) Interest and percentages added to taxes form part of such taxes and shall be collected as taxes. 1968-69, c. 74, s. 31, *part*.

(NOTE.—*For procedure in lieu of tax sales in certain municipalities, see The Department of Municipal Affairs Act R.S.O. 1970, c. 118.*)

Sale of
lands for
taxes,
what lands
only to
be sold

554. The treasurer shall not sell any lands for taxes that have not been included in the list furnished by him pursuant to section 543 to the clerks of the municipalities in the month of January preceding the sale. 1968-69, c. 74, s. 31, *part*.

When lands
to be sold
for taxes

555.—(1) Where a part of the tax on any land is in arrear for three years as provided by section 543 and subject to section 554, the treasurer shall, unless otherwise directed by by-law of the council, submit to the warden of the county a list in duplicate of all the lands liable under this Act to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the name and address of the owner, if known, and the warden shall authenticate each of such lists by affixing thereto the seal of the corporation and his signature, and one of such lists shall be deposited with the clerk of the county and the other shall be returned to the treasurer with a warrant thereto annexed, under the hand of the warden and the seal of the county, commanding the treasurer to levy upon the land for the arrears due thereon, with his costs.

Treasurer
to have
power to
add arrears
accruing
after return

(2) In municipalities whose officers have power to sell lands for arrears of taxes, the treasurer may add to the taxes shown in the list of lands liable to be sold for taxes any taxes that have fallen due since those shown in the lists furnished by the treasurer to the clerk under section 543, and have been returned by the collector to him as provided in section 537, and such lands may be sold as if such last-mentioned taxes had been included in the statement furnished to him by the clerk under section 543. 1968-69, c. 74, s. 31, *part*.

Expenses
added to
arrears

556. The treasurer shall, in each case, add to the arrears his commission or other lawful charges, and the costs of publication. 1968-69, c. 74, s. 31, *part*.

By-law
extending
period of
three years,
etc.

557. The council of a county or municipality whose officers have power to sell lands for arrears of taxes may by by-law passed for that purpose, from time to time, direct that no warrant shall

issue for the sale of lands for taxes until after the expiration of a longer period than that provided by section 555, and may also direct that such lands only be included in the warrant as are chargeable with arrears exceeding a certain sum to be named in the by-law, and may also direct that only such lands be included in the warrant as belong to any classification mentioned in the by-law or are of the character mentioned therein. 1968-69, c. 74, s. 31, *part*.

558. In the list annexed to every warrant, the lands mentioned therein shall be distinguished as patented, unpatented, or under lease or licence of occupation from the Crown or municipality, and the interest therein, if any, of the Crown or of the municipality shall be specially mentioned. 1968-69, c. 74, s. 31, *part*.

Distinguishing lands in list annexed to warrant

559. The county treasurer may, from time to time, correct any clerical error that he discovers or that may be certified to him by the clerk of any municipality. 1968-69, c. 74, s. 31, *part*.

Correction of errors by treasurer

560. If there are to the knowledge of the treasurer goods and chattels liable to distress upon any land in arrear for taxes, he shall levy the arrears of taxes and the costs by distress, and has the same authority to collect by distress as a collector has under this Act, and section 528 applies thereto; but no sale of the land is invalid by reason of the treasurer not having distrained, though there were on the land goods and chattels liable to distress before or at the time of sale. 1968-69, c. 74, s. 31, *part*.

Where distress on premises, treasurer may distrain

561. A treasurer is not bound to make inquiry, before effecting a sale of land for taxes, to ascertain whether or not there is any distress upon the land, or to inquire into or form any opinion of the value of the land. 1968-69, c. 74, s. 31, *part*.

Treasurer's duty on receiving warrant to sell

562.—(1) The treasurer shall prepare a copy of the list of lands annexed to the warrant and shall add thereto in a separate column a statement of the proportion of costs chargeable on each lot for advertising and for his commission or other lawful charges, distinguishing therein any of such lands that are unpatented or under lease or licence of occupation from the Crown as “unpatented” or “under Crown lease” or “under Crown licence”, as the case may be, and such list shall contain a notice that, unless the arrears of taxes and costs are sooner paid, the treasurer will proceed to sell the lands on the day and at the place specified therein.

Treasurer to prepare list of lands to be sold

(2) Such list shall be published in *The Ontario Gazette* once during the month immediately preceding the period of time mentioned in section 563.

Publication

Publication
of list and
notice of
sale

(3) A notice, stating that copies of the list of lands for sale for arrears of taxes may be had in the office of the treasurer and that such list has been published in *The Ontario Gazette* on the day specified in such notice and that, unless the arrears of taxes and costs are sooner paid, the treasurer will proceed to sell the lands on the day and at the place named therein, shall be published once a week for the thirteen weeks immediately preceding the day of sale in at least one newspaper published in the county or in the case of a union of counties in at least one newspaper published in each county of the union, or where the sale is to be held by the treasurer of a municipality in at least one newspaper published in the municipality and if no newspaper is published in the county or municipality then in at least one newspaper published in an adjacent county or municipality. 1968-69, c. 74, s. 31, *part*.

Time of
sale

563. The day of the sale shall be more than ninety-one days after the first publication of the list in *The Ontario Gazette*. 1968-69, c. 74, s. 31, *part*.

Notice to be
posted up

564. The treasurer of a county shall also post a printed copy of the list published in the newspaper in some convenient and public place at the court house of the county or district at least three weeks before the time of sale and the treasurer of a municipality other than a county shall also post a printed copy of such list in some convenient and public place at the place where the council of the municipality usually meets at least three weeks before the time of sale. 1968-69, c. 74, s. 31, *part*.

Tax sale
districts

565.—(1) For the purpose of tax sales, the Lieutenant Governor in Council may by order in council divide a provisional judicial district, and the council of any county may by by-law divide the county, into tax sale districts, each of which may contain one or more municipalities.

Place of
sales
therein

(2) The order in council or by-law may provide that thereafter the sales of land situate therein for arrears of taxes shall be held by the treasurer at such place in the tax sale district as may be named in the order in council or by-law.

Payment of
expenses

(3) Where any such order in council or by-law is passed, provision shall be made therein, or by further order in council or by-law, respecting the payment to the treasurer of his travelling and other expenses connected with his attending tax sales.

Advertise-
ment, what
to contain

(4) Every advertisement or notice of a tax sale shall state the name or number of the tax sale district and the place therein at which the sale will be held. 1968-69, c. 74, s. 31, *part*.

Adjourning
sale, if no
bidders

566. If at any time appointed for the sale of the lands no bidders appear, the treasurer may adjourn the sale from time to time. 1968-69, c. 74, s. 31, *part*.

567.—(1) If the full amount of the taxes for which the land was offered for sale has not been collected, or if no person appears to pay the same at the time and place appointed for the sale, the treasurer shall sell by public auction so much of the land as is sufficient to discharge the taxes, and all lawful charges incurred in and about the sale and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first, and, in offering or selling such lands, it is not necessary to describe particularly the portion of the lot that is to be sold, but it is sufficient to say that he will sell so much of the lot as may be necessary to secure the payment of the taxes, and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with expenses of sale, and together with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 583, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 3.

Mode in which the lands shall be sold by the treasurer

(2) If the treasurer fails at such sale to sell any land for the full amount of taxes, including the full amount of commission and other lawful charges and costs added under section 556, he shall at such sale adjourn it until a day then to be publicly named by him, not earlier than a week nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and on such day he shall sell such lands unless otherwise directed by the council of the municipality in which they are situate, for any sum he can realize, and shall accept such sum as full payment of such taxes; and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with expenses of sale, and together with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 583, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 3.

When land does not sell for full amount of taxes

(3) If the price offered for any land at the adjourned sale is less than the full amount of the taxes for which the land was offered

Purchase by municipality

for sale and the charges and costs, or if no price is offered, it is lawful for the municipality to purchase the land for the amount due, provided that an appropriation has been made for the purpose and that previous notice by public advertisement in the local newspaper or in one of the local newspapers in which the original sale was advertised of intention so to do has been given by the treasurer; and the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with the expenses of the sale, and together with 10 per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 583, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, and such taxes shall be computed at the rate fixed by by-law for each year in which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed and upon the frontages shown upon the list of properties and the frontages thereof as settled by the Assessment Review Court for such local improvement. 1968-69, c. 74, s. 31, *part*.

Mode of
selling land
for taxes

568.—(1) Notwithstanding section 567, the treasurer is not obliged to sell for taxes only a portion of land separately assessed but may sell the whole of such land for the best price offered at the sale, and any money obtained by the treasurer as the price of such land shall be applied, firstly, in paying the full amount of the taxes for which the land was offered for sale, together with the expenses of sale, and, secondly, in payment of the taxes, including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land, and the balance, if any, shall be paid by the treasurer to the owner of the land or to such other person as may be authorized by law to receive the balance less such charge and expenses as the treasurer may pay or incur in satisfying himself of the right of such owner or other person to receive the balance, and it is the duty of the person claiming the balance to produce to the treasurer proof of his right to receive the balance; provided that the owner or any person interested in the land may redeem the land within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the purchase price, together with 10 per cent of the full amount of the taxes for which the land was offered for sale and of the expenses of sale added thereto, and together with the full amount of the charges for searches, postage

and notice provided for in subsection 2 of section 583, and the balance, if any, outstanding of the taxes including local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 2 of section 567, but if the purchaser is the municipality redemption as aforesaid may be made upon payment of the full amount of the taxes for which the land was offered for sale, together with the expenses of sale, and together with 10 per cent added thereto, and together with the full amount of the charges for searches, postage and notice provided for in subsection 2 of section 583, and together with the taxes including local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 3 of section 567.

(2) Any balance payable to the owner of the land sold or to any other person entitled thereto shall, if not claimed within six years after the sale, belong to the municipality absolutely. Unclaimed balances

(3) Where an appropriation has been made for the purpose, the municipality may purchase lands under this section. 1968-69, c. 74, s. 31, *part*. Purchase by municipality

569. If a purchaser fails to pay his purchase money immediately, the treasurer shall forthwith again put up the property for sale. 1968-69, c. 74, s. 31, *part*. When purchaser fails to pay purchase money

570.—(1) Where the Crown whether as represented by the Government of Canada or the Government of the Province of Ontario, or any tribe or body of Indians or any member thereof, has an interest in any land in respect of which taxes are in arrear, the interest only of persons other than the Crown, tribe or body of Indians or any member thereof, therein is liable to be sold for arrears of taxes. Land in which the Crown has an interest

(2) Where the treasurer so sells the interest of any person, it shall be distinctly expressed, in the tax deed to be made under this Act to the purchaser, that the sale is only of the interest of such person in the land, and, whether so expressed or not, the tax deed in no wise affects the interest or rights of the Crown or tribe or body of Indians or any member thereof in the land sold, and gives the purchaser the same interest and rights only in respect of the land as the person had whose interest is being sold. Tax deed not to affect interest of Crown

(3) Where the interest so sold of any person is that of a lessee, licensee or locatee, the tax deed is valid without requiring the Validity of tax deed

consent of the Minister of Lands and Forests. 1968-69, c. 74, s. 31, *part*.

Sales not to be made where taxes less than \$10, or no improvements made

571. No sale for taxes shall be made of unpatented land in the free grant districts where the taxes due thereon are less than \$10, if the lands have not been before the 27th day of May, 1893, advertised for sale, nor where no *bona fide* improvements have been made by or on behalf of the locatee. 1968-69, c. 74, s. 31, *part*.

Sale of interest of lessee or tenant of municipal property

572. If the treasurer sells any interest in land of which the fee is in the municipality in respect of which the taxes accrue, he shall only sell the interest therein of the lessee or tenant, and it shall be so distinctly expressed in the tax deed. 1968-69, c. 74, s. 31, *part*.

Sale of lands for taxes not to affect collection of other rates

573. No sale of lands for taxes or for rates under a drainage or local improvement by-law invalidates or in any way affects the collection of a rate that has been assessed against or imposed or charged upon such lands prior to the date of the sale, but that accrues or becomes due and payable after the rates or taxes in respect of which the sale is had became due and payable or after the sale. 1968-69, c. 74, s. 31, *part*.

Treasurer selling to give purchaser a certificate of land sold

574. The treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has been sold, and the expenses of sale, and further stating that a deed conveying the land to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to sections 567 and 570, will be executed by the treasurer and warden on demand, at any time after the expiration of the period hereinafter provided for redemption. 1968-69, c. 74, s. 31, *part*.

Purchaser of lands deemed owner for certain purposes

575.—(1) The purchaser shall, on the receipt of the treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the land from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value.

Limitation of liability

(2) The purchaser is not liable for damage done to the property without his knowledge during the time the certificate is in force.

Repairs

(3) Where the purchaser is a municipality, it may make any expenditure necessary in order to keep the land in a proper state of

repair or to insure the land, and the amount thereof with interest as provided in section 553 may be added to the amount required to redeem the land, provided that the treasurer has sent at least one month before making such expenditure a notice containing the particulars of the proposed expenditure and an estimate of the cost thereof to each encumbrancer, if any, and to the registered owner by registered mail to the address of such encumbrancer or owner if known to the treasurer and, if such address is not known to the treasurer, then to any address of such encumbrancer or owner appearing in the records of the registry office or sheriff's office. 1968-69, c. 74, s. 31, *part*.

576. From the time of a tender to the treasurer of the full amount of redemption money required by this Act, the purchaser ceases to have any further right in or to the land in question. 1968-69, c. 74, s. 31, *part*.

Effect of
tender of
arrears, etc.

577. Every treasurer is entitled to $2\frac{1}{2}$ per cent commission upon the sums collected by him, as aforesaid, except that, where the taxes against any parcel of land are less than \$10, the treasurer is entitled to charge, in lieu of his commission, 25 cents; but where the treasurer is paid a salary for his services such commission may, by arrangement with the council, be paid into the funds of the municipality like any other revenue of the municipality. 1968-69, c. 74, s. 31, *part*.

Treasurer's
commission

578. Where land is sold by a treasurer according to section 562 and the following sections of this Act, he may add the commission and other charges that he is authorized by this Act to charge for the services above-mentioned to the amount of arrears on those lands in respect of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale of the arrears and costs incurred. 1968-69, c. 74, s. 31, *part*.

Fees, etc.,
on sales
of land

579. The treasurer shall, in all certificates and deeds given for lands sold at such sale, give a description of the part sold with a sufficient certainty, and, if less than a whole lot is sold, then he shall give such a general description as may enable a surveyor to lay off the piece sold on the ground, and he may make search, if necessary, in the registry office to ascertain the description and boundaries of the whole parcel, and he may also obtain a surveyor's description of such lots, to be taken from the registry office or the government maps, where a full description cannot otherwise be obtained, and the charges so incurred shall be included in the account and paid by the purchaser of the land sold or the person redeeming the land. 1968-69, c. 74, s. 31, *part*.

Expenses of
search in
registry
office for
description,
etc.

580. Except as hereinbefore provided, the treasurer is not entitled to any other fees or emoluments for any services rendered

Treasurer
entitled to
no other
fees

by him relating to the collection of arrears of taxes on lands. 1968-69, c. 74, s. 31, *part*.

Evidence of redemption

581. The treasurer shall give to the person paying redemption money a receipt stating the sum paid and the object of payment, and such receipt is evidence of the redemption. 1968-69, c. 74, s. 31, *part*.

Conveyance to former owner

582.—(1) Notwithstanding the other provisions of this Act or any other Act, where land that has been sold for taxes has been purchased by the municipality and the period for redemption has expired and where such land has not been sold or conveyed and has not been declared by by-law to be required for the purposes of the municipality, any person to whom notice was sent under subsection 2 of section 583 is, at any time with the approval of the Department, entitled to a conveyance of such land upon payment of the full amount that would have been payable in respect of taxes, penalties and interest had the land not been sold for taxes, together with the amount with interest thereon of any expenditure incurred for repairs and insurance and together with the costs in connection with such sale and of such conveyance.

Further notice

(2) Notwithstanding subsection 1, the treasurer may, at any time after the expiration of ten years from the date of the sale, cause to be sent by registered mail, to each person to whom notice was sent under subsection 2 of section 583, a further notice that, if he does not apply for a conveyance of the land under subsection 1 and tender the payment required under subsection 1 within six months of the date the notice is sent, his right to do so will expire.

Cessation of rights under subs. 1

(3) If a person notified under subsection 2 does not apply for a conveyance and tender the payment required under subsection 1 within such six months, his right to do so ceases to exist. 1968-69, c. 74, s. 31, *part*.

Treasurer to search title

583.—(1) Within ninety days from the day of sale, the treasurer shall, if the land is not previously redeemed, make or cause to be made search in the registry office and in the sheriff's office to ascertain whether or not there are mortgages or other encumbrances affecting the land sold and who is the registered owner of the land.

Notice to encumbrancer and owner

(2) The treasurer shall, within the said period of ninety days from the day of the sale, if the land is not previously redeemed, send by registered mail to each encumbrancer, if any, and to the registered owner, to the address of such encumbrancer or owner as it appears at that time in the records of the municipality in which the land is situated or, if such address does not appear in any of the records of such municipality or is not known to the treasurer, to any address of such encumbrancer or owner appearing in the

records of the registry office or sheriff's office, a notice stating that the land has been sold for taxes, the date of the sale, and that the encumbrancer or owner is at liberty within one year from the day of sale, exclusive of the day of sale, to redeem the estate sold by paying to the treasurer the amount required to redeem the estate and the amount of the charges for the searches aforesaid and for registration of the notice mentioned in subsection 3 and postage and 25 cents for the notice, the amount aforesaid to be specified in the notice.

(3) Before sending the notice mentioned in subsection 2, the treasurer shall ascertain from the treasurer of the municipality in which the land is situated the address of each owner and encumbrancer as it appears in the records of such municipality, and the treasurer of the local municipality shall supply such address or addresses to the county treasurer upon the request of the county treasurer.

County treasurer to ascertain address of owner, etc.

(4) Where a notice has been sent under subsection 2 to a corporation, the treasurer shall, within the time limit in subsection 2, send by registered mail to the Public Trustee a copy of the notice so sent.

Copy of notice to Public Trustee

(5) The treasurer shall, within ninety days from the date of sale, register in the registry office a written notice signed by him stating that the land described therein has been sold for taxes, the date of the sale, the time within which the land may be redeemed and the amount required to redeem the land.

Registration of notice of sale

(6) The notice mentioned in subsection 5 shall have attached thereto or endorsed thereon a statutory declaration of the treasurer setting forth the names and addresses of all persons to whom he has sent the notice required by subsection 2 and the date of sending the notice to each such person.

Registered notice to be verified by affidavit as to sending of notices

(7) If within the time aforesaid payment of the amount is made by any such encumbrancer or by the owner of the land, the treasurer shall give to the person making the payment a receipt stating the sum paid and the object of the payment, and it is evidence of the redemption, and any encumbrancer making the payment may add the amount to his debt.

Receipts if arrears paid

(8) In case of payment by the owner, the receipt shall be given to him and, in case of payment by one or more encumbrancers and not by the owner, the receipt shall be given to that encumbrancer who is first in priority, and the amount paid by other persons shall be repaid to them.

Who to be entitled to receipt

(9) If under subsection 5 a notice of sale of land for taxes has been registered and the land is redeemed, the treasurer shall, upon payment of the redemption money, deliver to the person paying the money a receipt signed by himself stating therein a descrip-

Receipt of redemption

tion of the land redeemed, the person who redeemed the land and the date and amount paid for redemption together with particulars of the registration of the notice, and a certified copy thereof shall be registered in the registry office by the treasurer.

Execution
and delivery
of deed

(10) If the redemption money is not paid within the time aforesaid, the treasurer upon payment of such charges for searches, postage and notice and \$1 for the deed shall with the warden execute and deliver to the purchaser or his assigns or other legal representatives a tax deed in duplicate of the land sold.

Deed may
include
several lots

(11) Such deed, if requested, may include any number of lots that are to be conveyed to the same person.

Late searches
and notices

(12) In any case where the treasurer fails to comply with the provisions of subsection 1 or 2 as to the time from the day of sale within which a search in the registry office and sheriff's office is made or notices to any encumbrancer and to the registered owner are sent, he may subsequently make or cause to be made the said search and send the notice, provided that in such case the time for redemption shall be within nine months from the day upon which the notice is sent and the notice shall so state. 1968-69, c. 74, s. 31, *part*.

Interpre-
tation

584. The words "treasurer" and "warden" in section 583 mean the person who at the time of the execution of the deed mentioned in that section holds such office. 1968-69, c. 74, s. 31, *part*.

Application
of redemp-
tion money

585.—(1) Out of the redemption money, the treasurer shall pay to the purchaser, not being the municipality, or his assigns or other legal representatives,

- (a) the sum paid by him together with 10 per cent of the full amount of the taxes for which the land was offered for sale; or
- (b) if the sum paid by the purchaser was less than the amount of taxes for which the land was offered for sale, the sum paid by him together with 10 per cent of such sum,

and the balance less the lawful costs, charges and expenses of the treasurer belongs to the municipality.

Where muni-
cipality is
purchaser

(2) Where the municipality is the purchaser, the whole of the redemption money belongs to it less the lawful costs, charges and expenses of the treasurer. 1968-69, c. 74, s. 31, *part*.

Contents of
deed and
effect
thereof

586.—(1) The tax deed shall be according to Form 31, or to the same effect, and shall state the date and cause of the sale, and the price, and shall describe the land according to section 579, and has the effect of vesting the land in the purchaser, his heirs,

assigns or legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold, and no such deed is invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as "patented" or "unpatented" or "held under a licence of occupation" or "held under lease" or otherwise.

(2) Notwithstanding subsection 1, a tax deed is not valid unless there is affixed thereto a statutory declaration of the treasurer that he has sent to the encumbrancers and registered owner the notice as provided in section 583, and such declaration shall form part thereof, and, where the tax deed has been registered, the treasurer shall deposit the declaration in the proper registry or land titles office where it shall be attached to the tax deed of the land in respect of which it was made. 1968-69, c. 74, s. 31, *part*.

Declaration
of
treasurer

587. The treasurer shall enter in a book, which the county council or council of the city or town, as the case may be, shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall together with all documents relating to lands sold for taxes be kept by him among the records of his office. 1968-69, c. 74, s. 31, *part*.

Treasurer
to enter in
a book
descriptions
of lands
conveyed to
purchasers

588. If any part of the taxes for which any land has been sold in pursuance of any Act heretofore in force in Ontario or of this Act had at the time of the sale been in arrear for three years as mentioned in section 543, and the land is not redeemed in one year after the sale, such sale, and the official deed to the purchaser (provided the sale was openly and fairly conducted) is, notwithstanding any neglect, omission or error of the municipality or of any agent or officer thereof in respect of imposing or levying such taxes or in any proceedings subsequent thereto, final and binding upon the former owner of the land and upon all persons claiming by, through or under him, it being intended by this Act that the owner of land shall be required to pay the taxes thereon within three years after the taxes are in arrear or redeem the land within one year after the sale thereof, and, in default of the taxes being paid or the land being redeemed as aforesaid, the right to bring an action to set aside the deed or to recover the land is barred. 1968-69, c. 74, s. 31, *part*.

Deed to be
binding if
land not
redeemed in
one year

589. Where land is sold for taxes and a tax deed thereof has been executed, the sale and the tax deeds are valid and binding, to all intents and purposes, except as against the Crown, unless questioned before some court of competent jurisdiction within two years from the time of sale. 1968-69, c. 74, s. 31, *part*.

Deed valid
if not
questioned
within a
certain time

Certain
treasurer's
deeds not to
be invalid if
the sale is
valid

590. In all cases where land has been validly sold for taxes, the conveyance by the officer who made the sale, or by his successors in office, is not invalid by reason of the statute under the authority whereof the sale was made having been repealed at or before the time of such conveyance, or by reason of the officer who made the sale having gone out of office. 1968-69, c. 74, s. 31, *part.*

Rights of
entry ad-
verse to tax
purchaser

R.S.O. 1970,
c. 85
Common
Law and
32 H. VIII,
c. 9, ss. 2,
4 and 6,
revived

591. In all cases where land is sold for arrears of taxes whether such sale is or is not valid, then so far as regards rights of entry adverse to a *bona fide* claim or right, whether valid or invalid, derived mediately or immediately under such sale, section 10 of *The Conveyancing and Law of Property Act* does not apply, to the end and intent that in such cases the right or title of a person claiming adversely to any such sale shall not be conveyed where any person is in occupation adversely to such right or title, and that in such cases the Common Law and sections 2, 4 and 6 of the statute passed in the 32nd year of the reign of King Henry VIII, and chaptered 9, be revived, and the same are and shall continue to be revived. 1968-69, c. 74, s. 31, *part.*

Adjustment
of damages
when sale
held to be
invalid

592.—(1) In all cases not being within any of the exceptions and provisions of subsection 3, where land having been legally liable to be assessed for taxes is sold for arrears of taxes, then, in case an action is brought for the recovery of the land and the sale is held to be invalid, damages shall be assessed for the defendant for the amount of the purchase money at the sale and interest thereon, and of all taxes paid by the defendant in respect of the lands since the sale and interest thereon, and of the value of any improvements made by the defendant before the commencement of the action, or by any person through or under whom he claims, less all just allowances for the timber sold off the lands, and all other just allowances to the plaintiff, and the value of the land to be recovered shall also be assessed less the value of any such improvements.

Plaintiff
to pay
damages
into court
before writ
of possession
issues, or
tax pur-
chaser may
elect to
retain the
land on
paying its
value

(2) If a judgment is pronounced for the plaintiff, no writ of possession shall issue until the expiration of one month thereafter nor until the plaintiff has paid into court for the defendant the amount of such damages, or, if the defendant desires to retain the land, he may retain it, on paying into court within such period of one month, or on or before any subsequent day to be appointed by the court, the value of the land as assessed at the trial; after which payment no writ of possession shall issue, but the plaintiff, on filing in court for the defendant a sufficient release and conveyance to the defendant of his right and title to the land in question, is entitled to the money so paid in by the defendant.

When
section not
to apply

(3) This section does not apply,

- (a) if the taxes for non-payment whereof the land was sold have been fully paid before the sale; if taxes paid before sale
- (b) if, within the period limited by law for redemption, the amount paid by the purchaser, with all interest payable thereon, has been paid or tendered to the person entitled to receive such payment, with a view to the redemption of the lands; if land redeemed
- (c) where, on the ground of fraud or evil practice by the purchaser at such sale, a court would grant equitable relief. 1968-69, c. 74, s. 31, *part*. in case of fraud

593.—(1) In any of the cases named in section 592, wherein the plaintiff is not tenant in fee simple, the payment into court to be made as aforesaid, of the value of the land, by the defendant desiring to retain the land, shall be into the Supreme Court, and the plaintiff and all parties entitled to and interested in the lands, as against the purchaser at such sale for taxes, on filing in the Supreme Court a sufficient release and conveyance to the defendant of their respective rights and interests in the land, are entitled to the money so paid in such proportions and shares as to the Supreme Court, having regard to the interests of the various parties, seems proper. Where the plaintiff is not tenant in fee, the value of the land to be paid into Supreme Court

(2) In any of such cases wherein the defendant is not tenant in fee simple, the payment of damages into court to be made as aforesaid by the plaintiff shall be into the Supreme Court. 1968-69, c. 74, s. 31, *part*. Payment into court where the defendant is not tenant in fee

594.—(1) If the defendant does not pay into court the value of the land assessed as aforesaid, within the period of one month, or on or before any subsequent day appointed by the court, as mentioned in subsection 2 of section 592, any other person interested in the land under the sale or conveyance for taxes may, within ninety days after the date of the pronouncing of the judgment mentioned in subsection 2 of section 592, or before any subsequent day appointed by the court as mentioned in that subsection for payment by the defendant, pay into the court the said value of the land, and until the expiration of the time within which such payment may be made, and after such payment, no writ of possession shall issue. Any other person interested may pay in value assessed if defendant does not

(2) The defendant or other person so paying in is entitled, as against all others interested in the land under the sale or conveyance for taxes, to a lien on the land for such amount as exceeds the proportionate value of his interest enforceable in such manner and in such shares and proportions as to the Supreme Payer to have lien for such proportion as exceeds his interest

Court, having regard to the interests of the various parties, and on hearing the parties, seems fit. 1968-69, c. 74, s. 31, *part*.

How owner
can obtain
value of
the land
paid in

595. If the defendant or any other person interested pays into court in manner aforesaid, the plaintiff is entitled to the amount so paid in on filing in court a sufficient release and conveyance to the person so paying in, of all his right and title to the lands, in which release and conveyance it shall be expressed that the same is in trust for such person to secure his lien as aforesaid. 1968-69, c. 74, s. 31, *part*.

How the
value of im-
provements,
etc., paid in
can be
obtained

596. If the value of the land is not paid into court as above provided, the damages paid into the Supreme Court shall be paid out to the various persons who, if the sale for taxes were valid, would be entitled to the land, in such shares and proportions as to the Supreme Court, having regard to the interests of the various parties, seems fit. 1968-69, c. 74, s. 31, *part*.

Provisions
as to costs
where value
of the land
and im-
provements,
etc., only in
question

597.—(1) In all actions for the recovery of land in which both the plaintiff (if his title were good) would be entitled in fee simple, and the defendant (if his title were good) would be also so entitled, if the defendant at the time of appearing gave notice in writing to the plaintiff in such action or to his solicitor named in the writ of the amount claimed, and that on payment of such amount the defendant or person in possession will surrender the possession to the plaintiff; or that he desired to retain the land, and was ready and willing to pay the court a sum mentioned in such notice as the value of the land, and that the defendant did not intend at the trial to contest the title of the plaintiff, and if the jury, or the judge, if there be no jury, before whom the action is tried, assesses damages for the defendant as provided in sections 592 to 596 and it satisfactorily appears that the defendant does not contest the action for any other purpose than to retain the land on paying the value thereof, or to obtain damages, the judge before whom the action is tried shall certify such fact upon the record, and thereupon the defendant is entitled to the costs of the defence in the same manner as if the plaintiff had been nonsuited on the trial, or a verdict had been rendered for the defendant.

Provisions
as to costs
in certain
cases

(2) If on the trial it is found that such notice was not given as aforesaid, or if the judge or jury assesses for the defendant a less amount than that claimed in the notice, or finds that the defendant had refused to surrender possession of the land after tender made of the amount claimed, or (where the defendant has given notice of his intention to retain the land) that the value of the land is greater than the amount mentioned in the notice, or that he has omitted to pay into court the amount mentioned in the notice for thirty days after the plaintiff had given to the defendant a written notice that he did not intend to contest the

value of the land, the judge shall not certify, and the defendant is not entitled to the costs of the defence, but shall pay costs to the plaintiff and, upon the trial of any action after such notice, no evidence shall be required in proof of the title of the plaintiff. 1968-69, c. 74, s. 31, *part*.

598. In any case in which the title of the tax purchaser is not valid, or in which no remedy is otherwise provided by this Act, the tax purchaser has a lien on the lands for the purchase money paid at the sale, and interest thereon at the rate of 10 per cent per annum, and for the taxes paid by him since the sale and interest thereon at the rate aforesaid, to be enforced against the land in such proportions as regards the various owners and in such manner as the Supreme Court thinks proper. 1968-69, c. 74, s. 31, *part*.

Tax purchaser without other remedy whose title is invalid to have a lien for purchase money, etc.

599. No valid contract entered into between any tax purchaser and original owner, in regard to any land sold or assumed to have been sold for taxes as to purchase, lease or otherwise, is annulled or interfered with by this Act, but such contract and all consequences thereof, as to admission of title or otherwise, remain in force as if this Act had not been passed. 1968-69, c. 74, s. 31, *part*.

Contracts between tax purchaser and original owner continued

600. Nothing in sections 591 to 599 affects the right or title of the owner of any land sold for taxes, or of any person claiming through or under him, where such owner at the time of the sale was in occupation of the land, and the land has since the sale been in the occupation of such owner or of those claiming through or under him. 1968-69, c. 74, s. 31, *part*.

Sections 591 to 599 not to apply where the owner has occupied since sale

601. In the construction of sections 590 to 600, occupation by a tenant shall be deemed the occupation of the reversioner, and the words "tax purchaser" apply to any person who purchases at any sale under colour of any statute authorizing sale of land for taxes and includes and extends to all persons claiming through or under him, and the words "original owner" include and extend to any person who, at the time of such sale, was interested in or entitled to the land sold, or assumed to be sold, and to all persons claiming through or under him. 1968-69, c. 74, s. 31, *part*.

Construction of "tax purchaser", "original owner"

602. Where the tax arrears procedures under *The Department of Municipal Affairs Act* are in effect in a municipality as defined in that Act, it is not necessary for the treasurer or other officer of the municipality to furnish to the county treasurer or sheriff any of the information or statements required under this Act in respect of tax arrears, and the powers and duties of the warden or treasurer of a county or sheriff under this Act in respect of tax arrears and tax sales do not apply in respect of the municipality,

Where tax arrears procedures of R.S.O. 1970, c. 118, in effect

and all the powers and duties of the county treasurer or sheriff in respect of arrears of taxes are vested in the treasurer of the municipality. 1968-69, c. 74, s. 31, *part*.

Collection
of arrears
of taxes
in cities
and towns

603. In cities and towns, arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other municipalities, and for such purposes the municipal officers of cities and towns shall perform the same duties and have the same powers as the like officers in other municipalities under sections 538 to 601, and the treasurer and mayor of every city or town shall, for such purposes, also perform the like duties as are hereinbefore, in the case of other municipalities, imposed on the county treasurer and warden respectively and have the like powers, and words referring to the county treasurer or warden shall as to a city or town be taken and deemed to refer to the mayor and treasurer of such city or town, provided that in cities and towns the performance of any such duty after the date or within a longer time than hereinbefore set out does not render any proceedings under this Act invalid or illegal so long as the provisions of this Act are in other respects duly complied with. 1968-69, c. 74, s. 31, *part*.

County
by-law
extending
application
of s. 603

604. The council of a county may by by-law declare that all the powers conferred upon cities and towns by section 603 or any of the sections referred to in that section, and all duties imposed by such sections upon the officers of such cities and towns and the mayors thereof, shall thereafter apply to any township or village named in the by-law, and thereupon such powers conferred and such duties imposed by such sections are vested in and apply respectively to the corporation of such township or village and to the officers and reeve or other head thereof in the same manner and to the same extent as in the case of cities and towns and the officers and mayors thereof. 1968-69, c. 74, s. 31, *part*.

Collection of
taxes and
sales of land
for taxes in
districts

605. Arrears of taxes due to the corporation of any municipality in a provisional judicial district shall be collected and managed in the same way as like arrears due to municipalities in counties, and the treasurer and head of such municipality shall perform the like duties in the collection and management of arrears of taxes as are performed in a county by the treasurer and warden. 1968-69, c. 74, s. 31, *part*.

Where
deficiency
occurs

606. Every municipal council in paying over any rate to a body for which it is required by law to levy rates or raise money shall, except where otherwise provided, supply out of the funds of the corporation any deficiency caused by the non-payment of taxes, and, where any deficiency is caused by the abatement or refund of or inability to collect taxes or by the limitation of

taxation of a telephone company under section 11 of *The Assessment Act*, the council shall charge back a proportionate share thereof to every such body, provided that the council shall not charge back any deficiency caused by an abatement or refund of taxes made as a result of an application brought under clause *d* or *g* of subsection 1 of section 76 of *The Assessment Act*. 1968-69, c. 74, s. 31, *part*; 1970, c. 135, s. 11.

R.S.O. 1970,
c. 32

607. Upon the incorporation of a new town in a county, the county treasurer shall make out a list of all arrears of taxes then due and unpaid in his books upon lands situated in the newly incorporated town and shall transmit the list to the treasurer of the town, who after receipt thereof has, with the mayor, all the powers possessed by the county treasurer and warden for the collection of such taxes and for enforcement of the same by sale; but in the list the county treasurer shall not include any lot then advertised for sale for taxes. 1968-69, c. 74, s. 31, *part*.

On incor-
poration of
a town,
county
treasurer to
transmit list
of arrears
to town
treasurer

608. In cases where a new local municipality is formed from two or more municipalities or portions of two or more municipalities situated in different counties, the collection of arrears of taxes due at the time of formation shall be made by the treasurer of the county in which the new municipality is situate, if the new municipality is a township or village, or if the new municipality is a town, by the treasurer of such town, and, for the purpose of enabling him to make the collection, the treasurer or the treasurers of the other county or counties from which any portion of the new municipality is detached shall immediately upon the formation thereof make out lists of the arrears of taxes then due in their respective portions, and transmit the lists to the treasurer of the county in which the new municipality is situate, or of the town as the case may be, and, where a new municipality is formed from two or more municipalities situate in any one county, the treasurer shall keep a separate account for such new municipality. 1968-69, c. 74, s. 31, *part*.

Arrears of
taxes, how
collected
where new
municipality
formed

609. The treasurer and warden of the county in which the new municipality, if it be a township or village, is situate, and the treasurer and mayor of the new municipality, if it be a town, have power, respectively, to take for the collection of such arrears of taxes all the proceedings that treasurers and wardens or treasurers and mayors can take for the sale and conveyance of land in arrears for taxes, and, if the lands in the new municipality have been advertised by the treasurer or treasurers of the county or counties of which the new municipality formed part before its formation, the sale of such lands shall be completed in the same manner as if the new municipality had not been formed. 1968-69, c. 74, s. 31, *part*.

Who may
take pro-
ceedings to
enforce
collection

Proceedings
where re-
turns made
to treasurer
before
separation

610. Where a municipality or part of a municipality has been or is hereafter separated from one county and included in another after a return has been made to the treasurer of the county to which it formerly belonged of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the former county, such treasurer shall return to the treasurer of the county to which such territory belongs a list of all the lands within such territory returned as in arrear for taxes and not advertised, and the treasurer and warden of the county to which the territory belongs have power respectively to take all the proceedings that treasurers and wardens can take under this Act for the sale and conveyance of lands in arrear for taxes; but, if the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. 1968-69, c. 74, s. 31, *part*.

Sales for
taxes on
lands that
have been
annexed to
city or
separated
town

611. Where a municipality or any part of a municipality has been or is hereafter separated from a county and included in a city or town separated from the county for municipal purposes, after a return has been made to the treasurer of the county of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the county, such treasurer shall return to the treasurer of the city or town a list of all the lands within such territory returned as in arrear for taxes and not advertised, and the treasurer and mayor of the city or town have the power to take all the proceedings that treasurers and wardens can take under this Act for the sale and conveyance of lands in arrear for taxes; but, if the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. 1968-69, c. 74, s. 31, *part*.

Provision
as to
easements
attaching
to dominant
tenement

612.—(1) Where land sold for arrears of taxes was a dominant tenement at the time of sale and was so sold after the 3rd day of April, 1930, the easements appurtenant thereto shall be deemed to have passed to the purchaser.

Provision
as to
easements
affecting
servient
tenement

(2) Where land sold for arrears of taxes was a servient tenement at the time of sale and was so sold after the 3rd day of April, 1930, the easements to which the land was subject are not affected by the sale.

Restrictive
covenant

(3) For the purposes of this section, a restrictive covenant running with the land shall be deemed to be an easement.

(4) Nothing in this section in any way affects or defeats the Crown with respect to its interest in any land which, or any interest in which, has been sold for taxes, or against which, or any interest in which, a tax arrears certificate has been registered. 1968-69, c. 74, s. 31, *part*.

Savings as to rights of Crown

613.—(1) Where land, the mining rights in which are liable for acreage tax under *The Mining Act*,

Effect of tax sale or tax certificate registration

(a) is sold for taxes under this Act; or

(b) is vested in a municipality or school board upon registration of a tax arrears certificate under *The Department of Municipal Affairs Act*,

R.S.O. 1970, c. 274, 118

on or after the 1st day of April, 1954, such sale or vesting creates a severance of the surface rights from the mining rights, and only the surface rights in the land pass to the tax sale purchaser or vest in the municipality or school board, as the case may be, and the sale or registration does not in any way affect the mining rights.

(2) Notwithstanding subsection 1 or anything else in this or any other Act but subject to any forfeiture to the Crown legally effected under *The Mining Tax Act* or its predecessor, where land the mining rights in which were liable for acreage tax under *The Mining Tax Act* or its predecessor,

before April 1, 1954
R.S.O. 1970, c. 275

(a) was sold for taxes under this Act or its predecessor; or

(b) was vested in a municipality or school board upon registration of a tax arrears certificate under *The Department of Municipal Affairs Act* or its predecessor,

R.S.O. 1970, c. 118

before the 1st day of April, 1954, and there had been, before the sale or registration, no severance of the surface rights from the mining rights, and the sale or certificate purported to vest all rights in the land in the tax sale purchaser or in the municipality or school board, as the case may be, such sale or certificate shall be deemed to have vested in the tax sale purchaser or in the municipality or school board, as the case may be, without severance, both the surface and mining rights.

(3) Where lands mentioned in subsection 1 or 2 are, under the provisions of this Act or *The Department of Municipal Affairs Act*, vested in a mining municipality designated under section 28 of *The Assessment Act*, the Crown in right of Ontario may purchase such lands at a price not exceeding \$3 an acre. 1968-69, c. 74, s. 31, *part*.

Purchase by Crown of lands vested in municipalities under subss. 1, 2
R.S.O. 1970, c. 32

RESPONSIBILITY OF OFFICERS

614. Every treasurer, clerk or other officer who refuses or neglects to perform any duty required of him by this Part, for which no other penalty is imposed, is guilty of an offence and on

Offence for officers failing to perform their duty

summary conviction is liable to a fine of not more than \$100. 1968-69, c. 74, s. 31, *part*.

Offence for
fraudulent
collection,
etc.
R.S.O. 1970,
c. 32

615. Every clerk, treasurer or collector, and every assistant or other person in the employment of the municipality, acting under this Part or *The Assessment Act* who makes a fraudulent collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts or permits to be inserted therein the name of any person that should not be entered, or fraudulently omits or allows to be omitted the name of any person that should be entered, or wilfully omits any duty required of him by this Part or *The Assessment Act* is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, or to imprisonment for a term of not more than six months, or to both. 1968-69, c. 74, s. 31, *part*.

Proceedings
for
compelling
collectors
to pay over
moneys
collected to
the proper
treasurer

616. If a collector refuses or neglects to pay the sums contained in his roll to the proper treasurer or other person legally authorized to receive the same, or duly to account for the same as uncollected, the treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant under his hand and seal directed to the sheriff of the county or city, as the case may be, commanding him to levy of the goods, chattels, lands and tenements of the collector and his sureties such sum as remains unpaid and unaccounted for, with costs, and to pay to the treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. 1968-69, c. 74, s. 31, *part*.

Warrant to
be delivered
to sheriff,
etc.

617. The treasurer shall immediately deliver the warrant to the sheriff of the county or city, as the case may require. 1968-69, c. 74, s. 31, *part*.

Sheriff to
execute
warrant and
pay money
levied

618. The sheriff to whom the warrant is directed shall, within forty days, cause the warrant to be executed and make return thereof to the treasurer, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of courts of record. 1968-69, c. 74, s. 31, *part*.

Mode of
compelling
sheriff
to pay over

619. If a sheriff refuses or neglects to levy any money when so commanded, or to pay over the money, or makes a false return to the warrant, or neglects or refuses to make any return, or makes an insufficient return, the treasurer may, upon affidavit of the facts, apply in a summary manner to the Supreme Court or a judge thereof for an order *nisi* or summons calling on the sheriff to answer the matter of the affidavit. 1968-69, c. 74, s. 31, *part*.

When re-
turnable

620. The order *nisi* or summons is returnable at such time as the court or judge directs.

621. Upon the return of the order *nisi* or summons, the court or judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matter of the application. 1968-69, c. 74, s. 31, *part.*

Hearing
on return

622. If the court or judge is of opinion that the sheriff has been guilty of the dereliction alleged against him, the court or judge shall order the proper officer of the court to issue a writ of *fi. fa.*, adapted to the case, directed to a coroner of the county in which the municipality is situate, or to a coroner of the city or town, as the case may be, for which the collector is in default. 1968-69, c. 74, s. 31, *part.*

Fi. fa. to
the coroner
to levy the
money

623. The writ shall direct the coroner to levy of the goods and chattels of the sheriff the sum that the sheriff was ordered to levy by the warrant of the treasurer, together with the costs of the application and of the writ and of its execution, and the writ shall bear date on the day of its issue, and is returnable forthwith on its being executed, and the coroner, upon executing the writ, is entitled to the same fees as upon a writ grounded upon a judgment of the court. 1968-69, c. 74, s. 31, *part.*

Tenor of
such writ
and
execution
thereof

624. Every sheriff who wilfully omits to perform any duty required of him by this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1968-69, c. 74, s. 31, *part.*

Offence for
sheriff
neglecting to
perform duty

625. All money assessed, levied and collected for the purpose of being paid to the Treasurer of Ontario, or to any other public officer, for the public uses of Ontario, or for any special purpose or use mentioned in the Act under which the money is raised, shall be assessed, levied and collected by, and accounted for and paid over to, the same persons, in the same manner and at the same time as taxes imposed on the same property for county, city or town purposes and shall be deemed and taken to be money collected for the county, city or town, so far as to charge every collector or treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of money assessed, levied and collected for the use of the county, city or town. 1968-69, c. 74, s. 31, *part.*

Payment
of money
collected
for the
Province

626. All money collected for county purposes or for any of the purposes mentioned in section 625 is payable by the collector to the township, town or village treasurer, and by him to the county treasurer, and the corporation of the township, town or village is responsible therefor to the corporation of the county. 1968-69, c. 74, s. 31, *part.*

How money
collected for
county
purposes to
be paid over

Collectors or
treasurers
bound to
account for
all money
collected
by them

627. Any bond or security given by the collector or treasurer to the corporation of the township, town or village, to account for and pay over all money collected or received by him, applies to money collected or received for county purposes or for any of the purposes mentioned in section 634. 1968-69, c. 74, s. 31, *part*.

Local
treasurer to
pay over
county
moneys to
county
treasurer

628.—(1) The treasurer of every township, town or village shall, on or before the 20th day of December in each year, pay to the treasurer of the county all moneys that were assessed and by law required to be levied and collected in the municipality for county purposes or for any of the purposes mentioned in section 627, and, in case of non-payment of such moneys or any portion thereof on or before such date, the township, town or village so in default shall pay to the county interest thereon at the rate of 12 per cent per annum from such date until payment is made. 1968-69, c. 74, s. 31, *part*; 1970, c. 135, s. 12 (1).

Reduced
penalty
rate and
allowance of
discount for
prepayment

(2) The council of a county may by by-law provide for a rate of interest of less than 12 per cent per annum in case of non-payment of moneys assessed for county purposes and may also provide for payment of a discount at such rate per annum as the by-law may set forth for payment of moneys or any portion thereof assessed for county purposes if paid prior to the 20th day of December in the year in which the moneys are payable. 1968-69, c. 74, s. 31, *part*; 1970, c. 135, s. 12 (2).

Mode of
enforcing
such
payments

629. If default is made in such payment, the county treasurer may retain or stop a like amount out of any money that would otherwise be payable by him to the municipality, or may recover the same by an action against the municipality, or, where the same has been in arrear for three months, he may, by warrant under his hand and seal, reciting the facts, direct the sheriff of the county to levy and collect the amount due with interest and costs from the municipality in default. 1968-69, c. 74, s. 31, *part*.

How sheriff
to make
levy
R.S.O. 1970,
c. 152

630. The sheriff, upon receipt of the warrant, shall levy and collect the amount, with his own fees and costs, in the same manner as is provided by *The Execution Act* in the case of executions against municipal corporations. 1968-69, c. 74, s. 31, *part*.

Treasurer,
etc., to
account for
and pay
over Crown
money

631. The county, city or town treasurer is accountable and responsible to the Crown for all money collected for any of the purposes mentioned in section 625, and shall pay over such money to the Treasurer of Ontario. 1968-69, c. 74, s. 31, *part*.

Municipality
responsible
for such
money

632. Every county, city and town is responsible to Her Majesty, and to all other persons interested, that all money coming into the hands of the treasurer of the county, city or town

in virtue of his office shall be duly paid over and accounted for by him according to law. 1968-69, c. 74, s. 31, *part*.

633. The treasurer and his sureties are responsible and accountable for such money to the county, city or town, and any bond or security given by them for the duly accounting for and paying over money belonging to the county, city or town applies to all money mentioned in section 625 and may be enforced against the treasurer or his sureties in case of default. 1968-69, c. 74, s. 31, *part*.

Treasurer,
etc., re-
sponsible to
county, etc.

634. The bond of the treasurer and his sureties applies to school money and to all public money of Ontario and, in case of default, Her Majesty may enforce the responsibility of the county, city or town by stopping a like amount out of any public money that would otherwise be payable to the county, city or town or to the treasurer thereof, or by action against the corporation. 1968-69, c. 74, s. 31, *part*.

Bonds to
apply to
school
money

635. Any person aggrieved by the default of the treasurer may recover from the corporation of the county, city or town the amount due or payable to such person as money had and received to his use. 1968-69, c. 74, s. 31, *part*.

City, etc.,
responsible
for default
of treasurer,
etc.

MISCELLANEOUS

636.—(1) Where the treasurer ascertains that certain taxes are uncollectable, he shall recommend to the Assessment Review Court that such outstanding taxes be struck off the roll, and the council, upon the recommendation of the Assessment Review Court, may direct the treasurer to strike such taxes off the roll.

Uncollect-
able taxes

(2) Notwithstanding subsection 1, the treasurer may strike from the roll taxes that by reason of a decision under section 76 of *The Assessment Act*, or of a decision of a judge of any court are uncollectable. 1968-69, c. 74, s. 31, *part*.

Taxes
uncollect-
able by
reason of
court
decision
R.S.O. 1970,
c. 32

637.—(1) Where the Government of Canada desires to relieve a tenant or user of any land owned by Her Majesty in right of Canada, or in which Her Majesty has an interest, from his personal liability to pay taxes assessed against him, or to provide payment for specific municipal services rendered to such a tenant or user or to Her Majesty, a municipality may agree to accept and may accept from the Government of Canada an amount of money in lieu of taxes on such tenant or user or payment for such specific municipal services that would otherwise be payable.

Payment
in lieu of
taxes by
Government
of Canada

(2) The specific municipal services referred to in subsection 1 do not include the provision of any right to attend elementary or secondary schools.

Municipal
services

Taxes not
to be levied

(3) Where a municipality has agreed to accept and has accepted such payment, as provided for in subsection 1, the municipality shall not collect any taxes on or in respect of any person who uses land with respect to which such payment is made.

Distribution
of money

(4) Where moneys are received by a municipality under subsection 1 to relieve a tenant or user of any land owned by Her Majesty in right of Canada, or in which Her Majesty has an interest, from his personal liability to pay taxes assessed against him, the amount thereof which, if the taxes had been levied in the usual way, would have been paid to any body for which the council is required by law to levy rates or raise money shall be paid over to such body.

Idem

(5) The money received by a municipality under subsection 1 other than the money paid over to other bodies under subsection 4 shall be credited to the general fund of the municipality. 1968-69, c. 74, s. 31, *part*.

Computation
of time for
proceedings
where time
limited
expires on
Saturday

638. Where the municipal offices in a municipality are closed on Saturday and the time limited for any proceeding or for the doing of any thing in such municipal offices under this Part expires or falls upon a Saturday, the time so limited shall extend to and the thing may be done on the day next following that is not a holiday. 1968-69, c. 74, s. 31, *part*.

PART XXV

MISCELLANEOUS

Forms

639. Where the forms therefor are not prescribed by this Act, the Department may prescribe forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form as prescribed by this Act or the Department and that is not calculated to mislead is not open to objection on the ground that it is not in accordance with the form so prescribed. 1962-63, c. 87, s. 20.

Repeal
of s. 354,
subs. 1,
par. 133

640. Paragraph 133 of subsection 1 of section 354 is repealed on a day to be proclaimed by the Lieutenant Governor by his proclamation. 1970, c. 135, s. 7 (7), 14 (4).

FORM 1

(Section 49 (1) (a))

DECLARATION OF QUALIFICATION BY CANDIDATE

I,, a candidate for election to the office of
in the municipality of declare that:

1. I am a householder residing in this municipality and am assessed as owner (or tenant) of a dwelling or apartment house (or part of a dwelling or apartment house separately occupied as a dwelling) or (I am rated on the last revised assessment roll for land held in my right for an amount sufficient to entitle me to be entered on the voters' list and reside in or within five miles of the municipality) or (I am the wife or husband of a householder who resides in the municipality and reside in or within five miles of the municipality).

2. I am entered on the last revised voters' list as qualified to vote at municipal elections.

3. I am a British subject and am not a citizen or a subject of any foreign country.

4. I am of the full age of 21 years.

5. I am not disqualified under section 36 of *The Municipal Act* or under any other Act.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me at
..... this }
day of, 19..... }

R.S.O. 1960, c. 249, Form 1; 1962-63, c. 87, s. 21; 1968-69, c. 74, s. 32.

FORM 2

(Section 235 (1))

I,, having been elected to the office of
in the municipality of do swear that I will be faithful
and bear true allegiance to Her Majesty Queen Elizabeth II (or the reigning
sovereign for the time being).

Sworn before me at the
of }
in the of }
this day of }
19..... }

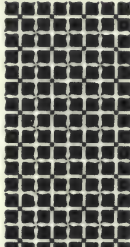
R.S.O. 1960, c. 249, Form 2; 1968, c. 76, s. 31.

FORM 3

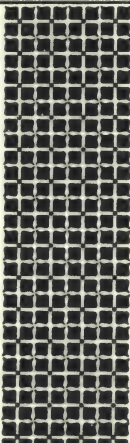
(Section 73 (1))

BALLOT PAPER FOR CITIES AND TOWNS

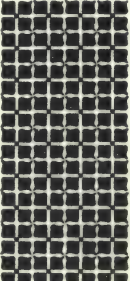
FORM FOR MAYOR

	Election for the Members of the Municipal Council of the City of Ward No. Polling Subdivision No. day of 19.....	FOR MAYOR	ALLAN Charles Allan, of King Street, in the City of Toronto, Merchant.
			BROWN William Brown, of the City of Toronto, Banker.

FORM FOR REEVE AND DEPUTY REEVE IN TOWNS

	Election for the Members of the Municipal Council of the Town of Ward No. Polling Subdivision No. day of 19.....	FOR REEVE	CLITHEROE Albert Clitheroe, of the Town of Galt, Baker.
			HUGHES David Hughes, of the Town of Galt, Tinsmith.
		FOR DEPUTY REEVE	FARQUHARSON Robin Farquharson, of the Town of Galt, Builder.
			MacPHERSON Roderick MacPherson, of the Town of Galt, Printer.

FORM FOR ALDERMEN OR COUNCILLORS

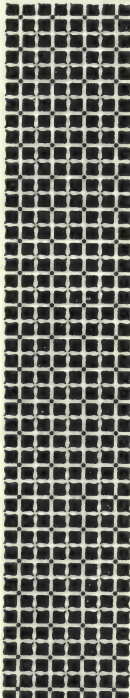
	Election for the Members of the Municipal Council of the City of Ward No. Polling Sub- division No. day of 19.....	FOR ALDERMAN (or) COUNCILLOR	ARGO James Argo, of the City of Toronto, Gentleman.
			BAKER Samuel Baker, of the City of Toronto, Baker.
			DUNCAN Robert Duncan, of the City of Toronto, Printer.

[NOTE.—In the case of cities and towns where Aldermen or Councillors are elected by general vote, the form above given is to be adapted to suit the case.]

FORM 5

(Section 73 (1))

BALLOT PAPER FOR VILLAGES

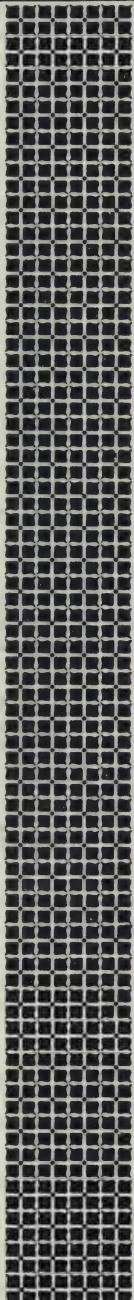
	Election of Members of the Municipal Council of the of in the County of, Polling Subdivision No., day of, 19.....	FOR REEVE	BROWN John Brown, of the Village of Weston, Merchant.
		ROBINSON George Robinson, of the Village of Weston, Physician.	
		FOR COUNCILLORS	BULL John Bull, of the Village of Weston, Butcher.
			JONES Morgan Jones, of the Village of Weston, Grocer.
			McALLISTER Allister McAllister, of the Village of Weston, Tailor.
			O'CONNELL Patrick O'Connell, of the Village of Weston, Milkman.

R.S.O. 1960, c. 249, Form 5.

FORM 6

(Section 73 (1))

BALLOT PAPER FOR TOWNSHIPS

	Election of Members of the Municipal Council of..... in the County of.....	FOR REEVE	ALLSOPP Albert Allsopp, of the Township of York, Brewer.
			BURTON Henry Burton, of the Township of York, Farmer.
		FOR DEPUTY REEVE	BANKS John Banks, of the Township of York, Blacksmith.
			CALDWELL Henry Caldwell, of the Township of York, Market Gardener.
			CONNOR Patrick Connor, of the Township of York, Cattle Dealer.
			DAVIDSON Thomas Davidson, of the Township of York, Milkman.
		FOR COUNCILLORS	BRITTON James Britton, of the Township of York, Farmer.
			LLOYD David Lloyd, of the Township of York, Farmer.
			MACDONALD Philip Macdonald, of the Township of York, Agent.
			O'LEARY Dennis O'Leary, of the Township of York, Farmer.

[NOTE.—Where the election is to fill a vacancy, the ballot papers are to contain only so much of the form as is required, and the counterfoils shall bear, instead of the words appearing on the form, the words “Election of, to fill a vacancy in the office of Ward No., Polling sub-division No., day of, 19”.

Where controllers, or commissioners, or members of the board of education, are to be elected, the ballot papers are to be similar in form.]

FORM 7

(Section 78)

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING

The voter will go into one of the compartments and, with a pen or pencil, place a cross, thus X, on the right hand side, opposite the name or names of the candidate or candidates for whom he votes or at any place within the division that contains the name or names of such candidate or candidates.

The voter will fold up the ballot paper so as to show the name or initials of the deputy returning officer (*or returning officer, as the case may be*) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot paper so folded to the deputy returning officer (*or returning officer, as the case may be*) and forthwith quit the polling place.


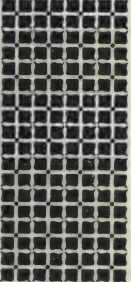
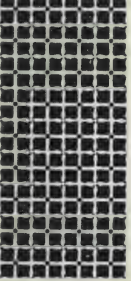
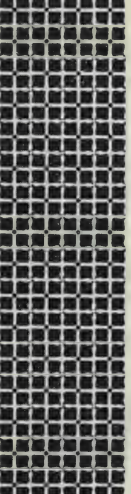
If the voter inadvertently spoils a ballot paper, he may return it to the deputy returning officer (*or returning officer, as the case may be*) who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more candidates for any office than he is entitled to vote for, his ballot paper will be void as far as relates to that office, and will not be counted for any of the candidates for that office.

If the voter places any mark on his ballot paper by which he may afterwards be identified, or if the ballot paper has been torn, defaced, or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the officer, he will be subject to imprisonment for any term not exceeding 6 months, with or without hard labour.

In the following forms of ballot paper, given for illustration, the candidates are, for Mayor, Jacob Thompson and Robert Walker; for Reeve, George Jones and John Smith; for Deputy Reeve, Thomas Brown and William Davis; for Councillors, John Bull, Morgan Jones, Allister McAllister and Patrick O'Connell; and the elector has marked the first ballot paper in favour of Jacob Thompson for Mayor, the second ballot paper in favour of George Jones for Reeve, the third ballot paper in favour of William David for Deputy Reeve, and the fourth ballot paper in favour of John Bull and Patrick O'Connell for Councillors.

	Election for the Members of the Municipal Council of the Town of, Ward No. Polling Sub-division No., 19..... day of	FOR MAYOR	<div>THOMPSON</div> <div>Jacob Thompson, of the Town of Barrie, Merchant. X</div> <div>WALKER</div> <div>Robert Walker, of the Town of Barrie, Physician.</div>
	Election for the Members of the Municipal Council of the Town of, Ward No. Polling Sub-division No., 19..... day of	FOR REEVE	<div>JONES</div> <div>George Jones, of the Town of Barrie, Barrister. X</div> <div>SMITH</div> <div>John Smith, of the Town of Barrie, Banker.</div>
	Election for the Members of the Municipal Council of the Town of, Ward No. Polling Sub-division No., 19..... day of	FOR DEPUTY REEVE	<div>BROWN</div> <div>Thomas Brown, of the Town of Barrie, Grocer. X</div> <div>DAVIS</div> <div>William Davis, of the Town of Barrie, Jeweller.</div>
	Election for the Members of the Municipal Council of the Polling Subdivision No., 19..... day of	FOR COUNCILLORS	<div>BULL</div> <div>John Bull, of the Town of Barrie, Butcher. X</div> <div>JONES</div> <div>Morgan Jones, of the Town of Barrie, Grocer.</div> <div>McALLISTER</div> <div>Allister McAllister, of the Town of Barrie, Tailor.</div> <div>O'CONNELL</div> <div>Patrick O'Connell, of the Town of Barrie, Milkman. X</div>

FORM 8
(Section 81)

FORM IN WHICH POLL BOOK TO BE FURNISHED TO DEPUTY RETURNING OFFICERS IS TO BE PREPARED

Column for marking that the voter has voted.	NAMES OF THE VOTERS	Description of property in respect of which the voter is entitled to vote.	Owner, Tenant, Farmer's Son, etc.	Residence of Voter.	Objections.	Sworn or affirmed.	Refused to swear or affirm.	Mayor and Reeve.	Deputy Reeves.	Councillors.	REMARKS

NOTE.—In Cities, the column above headed "Mayor and Reeve" is to be headed "Mayor"; and the column above headed "Councillors" is to be headed "Aldermen". In Townships and Villages, the above column headed "Mayor and Reeve" is to be headed "Reeve". Where Controllers, Commissioners or Members of a Board of Education are to be elected, columns for these are to be added with appropriate headings.

R.S.O. 1960, c. 249, Form 8

FORM 9

(Section 86 (1))

CERTIFICATE AS TO ASSESSMENT ROLL AND VOTERS' LIST

Election to the Municipal Council of the.....
..... of, 19.....

I,, Clerk of the Municipality of in the
County of, hereby certify that the assess-
ment roll for this municipality upon which the voters' list to be used at this
election is based was returned on the.....
day of, 19....., and that the last day for making
complaint to the Judge with respect to the list was the.....
day of, 19.....

Dated this..... day of, 19.....

[Seal] Clerk

R.S.O. 1960, c. 249, Form 9.

FORM 10

(Section 38 (7-9))

Municipality of.....

CERTIFICATE TO ENTER NAME ON VOTERS' LIST

I hereby certify that the name of the following person, that is to say:

Name	Con- dition	Lot	Street or Con- cession	Owner, Tenant, etc.	Post Office Address	Jurors' column
.....
.....
.....
.....
.....

has been omitted from the last revised voters' list of this municipality and that he
is entitled to be entered thereon and to vote at the municipal poll to be held on the
..... day of, 19....., for Polling
Subdivision No. in the Ward, and this is
your authority for entering the name of such person on the voters' list for the said
subdivision and for permitting him to vote as if his name had been entered before
the said list was revised.

Given under my hand this..... day of, 19.....

..... Clerk

To the Returning Officer
and Deputy Returning Officer,
Polling Subdivision No. Ward.

FORM 11

(Section 91 (16))

CERTIFICATE AS TO VOTERS WHO HAVE VOTED
AT ADVANCE POLL

I,, Returning Officer for the municipal election for the of certify that the following voters listed on the Voters' List for Polling Subdivision No. of the of have voted at an advance poll held for this election:

Name

Address

.....
.....

Given under my hand this day of,
19....

Returning Officer.

R.S.O. 1960, c. 249, Form 11.

FORM 12

(Section 96 (1))

OATH TO BE ADMINISTERED TO A VOTER

You swear (a)

1. That you are the person named or intended to be named by the name of in the list (or supplementary list) of voters (b) now shown to you.

2. That you are a natural born (or naturalized) subject of Her Majesty, and of the full age of 21 years.

3. That you are not a citizen or subject of any foreign country.

4. That (c).

5. (In the case of a municipality not divided into wards) That you have not voted before at this election at this or any other polling place.

6. (Where the municipality is divided into wards and the election is not by general vote.) That you have not voted before at this election at this or any other polling place in this ward, (or if the election is by general vote) that you reside in this polling subdivision (or are not entitled to vote in the polling subdivision in which you reside or are not resident within the municipality, as the case may be), and that you have not voted before or elsewhere at this election, and will not vote elsewhere at this election (d).

7. That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender.

8. That you have not received anything, nor has anything been promised you, directly or indirectly, to induce you to vote at this election.

9. That you have not directly or indirectly paid or promised anything to any person to induce him to vote or to refrain from voting at this election.

(a) *If the voter is a person who may by law affirm in civil cases, substitute for "swear", "solemnly affirm".*

(b) *In the case of a new municipality in which there has not been any assessment roll, instead of referring to the list of voters, the oath is to state the land in respect of which the person claims to vote.*

(c) *In the case of a person claiming to vote in respect of a freehold estate, insert here, "At the date of this election you are in your own right (or you reside in or within five miles of the municipality and your wife is in her own right or you reside in or within five miles of the municipality and your husband is in his own right) owner of land within this polling subdivision (or, in case of a ward not divided into polling subdivisions, within this ward)"*

In the case of a person claiming to vote in respect of a leasehold estate, insert here, "That you were (or your wife was or your husband was) actually and truly in good faith possessed to your (or her or his) own use, and benefit as tenant of the land in respect of which your name is entered on such list". And in the case of a wife or husband of a tenant, insert here, "And your (wife or husband) is a resident of this municipality and has resided within it for one month next before this election"

In the case of a person claiming to vote as a farmer's son, insert here
That on the day of, 19....,
(the day certified by the clerk as the date of the final revision of the assessment roll upon which the voters' list is based, or, at the option of the voter, the day certified by the clerk as the last day for making complaint to the Judge with respect to such list) A.B., (naming him or her) was actually, truly and in good faith possessed to his (or her) own use and benefit as owner (or as tenant under a lease the term of which was not less than five years, as you verily believe of the land in respect of which your name is entered on the voters' list, and that you are a son (or a stepson) of the said A.B., and that you resided on the said land for twelve months next before the said day, and were not absent during that period except temporarily, and for not more than six months in all, and that you are still a resident of this municipality.

Where the voter is a leaseholder, and the voting is on a by-law under section 70 of The Local Improvement Act, add:

That you have, by the lease under which you hold, contracted to pay all municipal taxes, including local improvement rates.

(d) *(In the case of a municipality divided into wards, if the by-law is one of creating a debt, substitute for paragraph 6 the following):*

6. That you have not voted before on the by-law at this or any other polling place in this ward; *(and in the case of any other by-law, the following):*

6. That you reside in this polling subdivision or are not entitled to vote in the polling subdivision in which you reside or are not resident within the municipality *(as the case may be)*, and that you have not voted before elsewhere, and will not vote elsewhere on the by-law.

Where the voter is a leaseholder, and the voting is on a by-law for creating a debt, add the following paragraph:

10. That the lease under which you hold extends for the period for which the debt or liability to be created by the by-law is to run, and you have contracted by the lease to pay all municipal taxes in respect of the land other than special assessments for local improvements.

Where the voting is on a by-law, substitute for the words "at this election" the words "on the by-law"; and where the voting is on a question, substitute for the words "at this election" the words "on the question".

R.S.O. 1960, c. 249, Form 12: 1966, c. 93, s. 38.

NOTE.—*Where the voter is the nominee of a corporation, the oath shall state the fact, and that the voter has not voted before on the by-law "at this or any other polling place", adding if the municipality is divided into wards "in this ward", and shall also contain paragraphs 1, 7, 8 and 9.*

FORM 13

(Section 101)

DECLARATION OF INABILITY TO READ

I, A. B., of, being numbered on the voters' list for polling subdivision No., in the City (or as the case may be) of, being a legally qualified elector for the City (or as the case may be) of, declare that I am unable to read (or that I am from physical incapacity unable to mark a ballot paper, or that I object on religious grounds to mark a ballot paper, as the case may be).

(A. B., His X Mark)

Dated this day of, 19

R.S.O. 1960, c. 249, Form 13.

NOTE.—If the person objects on religious grounds to mark a ballot paper the declaration may be made orally and to the above effect.

FORM 14

(Section 101 (5))

DECLARATION OF FRIEND OF BLIND VOTER

I, (insert name of friend), of the of, in the County of (occupation), declare that I will keep secret the name of the candidate for whom I mark the ballot of (name of blind voter) on whose behalf I act.

Dated this day of, 19

Witness: Deputy Returning Officer Signature of friend

R.S.O. 1960, c. 249, Form 14.

FORM 15

(Section 101 (7))

CERTIFICATE TO BE WRITTEN UPON OR ANNEXED TO THE DECLARATION OF INABILITY TO READ

I, C. D., Deputy Returning Officer for Polling Subdivision No. for the City (or as the case may be) of, hereby certify that the above (or within) declaration, having been first read to the above (or within) named A. B., was signed by him in my presence with his mark.

C. D.

Dated this day of, 19

R.S.O. 1960, c. 249, Form 15.

FORM 16

(Section 115 (1))

OATH OF POLL CLERK OR MESSENGER WHERE THE DEPUTY RETURNING OFFICER
IS UNABLE TO DELIVER THE BALLOT BOX TO THE
RETURNING OFFICER

I,, swear that I am the person to whom
....., Deputy Returning Officer for Polling Subdivision
No., of the of
entrusted the ballot box for the polling subdivision to be delivered to the Clerk;
that the ballot box that I delivered to the Clerk this day is the ballot box I so
received; that I have not opened it and that it has not been opened by any other
person since I received it from the Deputy Returning Officer.

Sworn before me at }
this }
day of , 19..... }

R.S.O. 1960, c. 249, Form 16.

FORM 17

(Section 115 (3))

OATH OF DEPUTY RETURNING OFFICER AFTER CLOSING OF THE POLL

I,, Deputy Returning Officer for Polling Subdivision
No., of the City (or as the case may be) of in the County
of swear that, to the best of my knowledge and belief, the poll
book kept for the polling place under my direction has been kept correctly, that
the total number of voters polled according to the poll book is
and that it contains a true and exact record of the votes given at the polling place,
as the votes were taken thereat; that I have correctly counted the votes given for
each candidate, in the manner by law provided, and performed all duties required
of me by law, and that the statement, voters' list, poll book, packets containing
ballot papers, and other documents required by law to be returned by me to the
Clerk, have been faithfully and truly prepared and placed in the ballot box, and
are contained in the ballot box returned to me to the Clerk, which was locked and
sealed by me, in accordance with *The Municipal Act*, and remained so locked and
sealed while in my possession.

Sworn before me at }
in the County of }
this day of , 19.. }

R.S.O. 1960, c. 249, Form 17.

FORM 18

(Section 127)

OATH OF SECRECY

I, *A. B.*, swear that I will not at this election disclose to any person the name of any person who has voted, and that I will not in any way unlawfully attempt to ascertain the candidate or candidates for whom any elector shall vote or has voted, and will not in any way aid in the unlawful discovery of the same, and that I will keep secret all knowledge that may come to me of the person for whom any elector has voted.

Sworn before me this } *A. B.*
day of , 19..... } *C. D.*
J.P. (or as the case may be)

R.S.O. 1960, c. 249, Form 18.

NOTE.—When the voting is on a by-law or question, the form is to be adapted to that case.

FORM 19

(Section 185)

CERTIFICATE OF CLERK AS TO ELECTION OF REEVE
AND DEPUTY REEVE (IF ANY)

I, *A. B.*, of , Clerk of the Corporation of
in the County of , do hereby certify under my hand and
the seal of the Corporation that *X. Y.* was duly elected reeve (or deputy reeve) of
the town (township or village, as the case may be), and has made and subscribed the
declaration of office and qualification as such reeve (or deputy reeve).

A. B.

R.S.O. 1960, c. 249, Form 19.

FORM 20

(Section 235 (1))

DECLARATION OF ELECTED OFFICE

I, , do solemnly promise
and declare that I will truly, faithfully and impartially, to the best of my
knowledge and ability, execute the office of to which
I have been elected in this municipality, that I have not received and will not
receive any payment or reward, or promise thereof, for the exercise of any
partiality or malversation or other undue execution of such office, that I have not
by myself or partner, either directly or indirectly, any interest in any contract
with or on behalf of the corporation, that I am not a shareholder with a controlling
interest in or a director, manager, secretary, treasurer, secretary-treasurer or
agent of an incorporated company having dealings or a contract with the
corporation, and that I will disclose any pecuniary interest, direct or indirect, that
I may have in any proposed contract with the corporation or in any other matter
in which the (city, town, etc.) of is concerned.

1966, c. 93, s. 39, part.

FORM 21

(Section 235 (2))

DECLARATION OF APPOINTED OFFICE

I,, do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*insert name of office, or offices in the case of a person who has been appointed to two or more offices that he may lawfully hold at the same time*), that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the offices to which I have been appointed in this municipality, that I have not received and will not receive any payment or reward, or promise thereof, for the exercise of any partiality or malversation or other undue execution of such office (*or offices*), and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the corporation except that arising out of my office as clerk (*or my office as treasurer, collector, etc., as the case may be*).

1966, c. 93, s. 39, *part*; 1968-69, c. 74, s. 33.

FORM 22

(Section 235 (4))

OATH OF RETURNING OFFICER, DEPUTY RETURNING
OFFICER AND POLL CLERK

I,, swear that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*inserting the name of the office*) in this municipality and that I have not received and will not receive any payment or reward, or promise thereof, for the due exercise of any partiality or malversation or other undue execution of such office.

Sworn before me this }
day of, 19..... }

R.S.O. 1960, c. 249, Form 22

FORM 23

(Section 235 (6))

DECLARATION OF AUDITOR

I,, having been appointed auditor for the municipal corporation of, promise and declare that I will faithfully perform the duties of that office according to the best of my judgment and ability; and I do solemnly declare that I had not, directly or indirectly, any share or interest in any contract or employment (except that of auditor, *if reappointed*) with, by or on behalf of such municipal corporation during the year preceding my appointment, and that I have not any such contract or employment except that of auditor or other than for services within my professional capacity.

1962-63, c. 87, s. 22.

FORM 24

(Section 265 (2))

DECLARATION OF ELECTOR

I, the undersigned,, declare that I am an elector in this municipality, and that I am desirous of promoting (or opposing, as the case may be) the passing of the by-law to (here insert object of the by-law), submitted by the Council of this municipality (or of voting in the affirmative, or in the negative, as the case may be), on the question submitted.

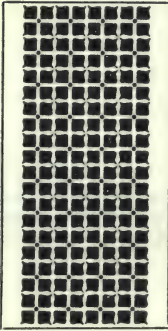
Declared before me this }
day of, 19. }

R.S.O. 1960, c. 249, Form 24.

FORM 25

(Section 272)

BALLOT PAPER FOR VOTING ON A BY-LAW

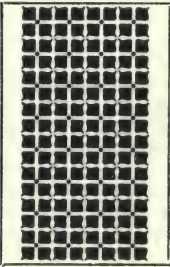
	19. Voting on By-law to (here insert object of the by-law) submitted by the Council of the of	FOR The By-law.
		AGAINST The By-law.

R.S.O. 1960, c. 249, Form 25.

FORM 26

(Section 272)

BALLOT PAPER FOR VOTING ON QUESTION

	19. Voting on the following question (here state questions).	YES
		NO

R.S.O. 1960, c. 249, Form 26.

FORM 27

(Section 273)

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING

The voter will go into one of the compartments and, with a pen or pencil, place a cross, thus X, on the right hand side, in the upper space if he votes for the passing of the by-law, or in the affirmative on the question, and in the lower space if he votes against the passing of the by-law, or in the negative on the question.

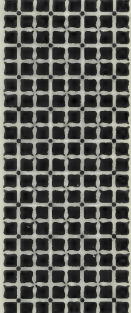
The voter will then fold up the ballot paper so as to show the name or initials of the Deputy Returning Officer (or Returning Officer, as the case may be) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot paper so folded to the Deputy Returning Officer (or Returning Officer, as the case may be) and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer (or Returning Officer, as the case may be), who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter places on the paper more than one mark, or places any mark on his ballot paper by which he may be afterwards identified, or if the ballot paper has been torn, defaced or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Deputy Returning Officer (or Returning Officer, as the case may be), he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

In the following form of ballot paper, given for illustration, the Elector has marked his ballot paper in favour of the passing of the By-law:

	Voting on By-law to (here insert object of the by-law) submitted by the Council of of	FOR X
		The By-law.
		AGAINST
		The By-law.

FORM 28

(Section 281 (1))

NOTICE ON PROMULGATION OF BY-LAW

The above is a true copy of a by-law passed by the Municipal Council of of on the day of 19..... And all persons are hereby required to take notice that anyone desirous of applying to have such by-law, or any part thereof, quashed must make his application for that purpose to the Supreme Court, within three months next after the first publication of this notice in the newspaper called the , or he will be too late to be heard in that behalf.

R.S.O. 1960, c. 249, Form 28.

FORM 29

(Section 535 (3))

FORM OF OATH TO BE ATTACHED TO COLLECTOR'S ROLL

I, (*name and residence*), make oath and say (*or solemnly declare and affirm*) as follows:

In accordance with *The Municipal Act*, I have appended my initials in the collector's roll attached hereto to every date entered by me in the roll as the date of demand of payment, or notice of taxes, pursuant to section 521 (*or* section 527) and of every transmission of statement and demand of taxes pursuant to section 523, or have attached my certificate pursuant to section 524, and every such date has been truly stated in the roll or certificate.

1968-69, c. 74, s. 34, *part*.

FORM 30

(Section 549 (3))

CERTIFICATE OF TREASURER

Treasurer's Office of the County (or City or Town or Township) of _____

Statement showing arrears of taxes upon the following lands in the Township,
or City, or Town of

[illegible]

I hereby certify that the above statement shows all arrears of taxes returned to this office against the above lands, and that no part of the lands has been sold for taxes and no certificate of tax arrears has been registered against the lands within the last eighteen months, and that the return under section 538 of *The Municipal Act* has been made for the year 19

Treasurer.

1968-69, c. 74, s. 34, *part.*

FORM 31

(Section 586)

TAX DEED

To all to whom these presents shall come:

We,, of the of the
 Esquire, Warden (or Mayor, or Reeve), and of the
 of esquire, Treasurer of the County (or City or Town or
 Township) of Send Greeting:

WHEREAS by virtue of a warrant under the hand of the Warden (or Mayor or
 Reeve) and seal of the said County (or City or Town or Township), bearing date
 the day of 19.....
 commanding the Treasurer of the County (or City or Town or Township) to levy
 upon the land hereinafter mentioned for the arrears of taxes due thereon, with his
 costs, the Treasurer of the County (or City or Town or Township) did, on
 the day of 19.....
 sell by public auction to of the of
 in the County of that certain parcel
 or tract of land and premises hereinafter mentioned, at and for the price or sum
 of of lawful money of Canada, on account of the
 arrears of taxes alleged to be due thereon up to the day of
 19....., together with the costs:

Now know ye, that we, and
 as Warden (or Mayor or Reeve) and Treasurer of the said County (or
 City or Town or Township) in pursuance of such sale, and of *The Municipal
 Act*, and for the consideration aforesaid, do hereby grant, bargain and sell
 unto his heirs and assigns, all that certain parcel or
 tract of land and premises containing being composed
 of (*describe the land so that it may be readily identified*).

In witness whereof, we the Warden (or Mayor or Reeve) and Treasurer
 of the County (or City or Town or Township) have hereunto set our hands
 and affixed the seal of the County (or City or Town or Township), this
 day of 19.....; and the Clerk of the County
 (or City or Town or Township) Council has countersigned.

A.B., Warden (or Mayor or Reeve), (*Corporate Seal*)

C.D., Treasurer

Countersigned,

E.F., Clerk.

1968-69, c. 74, s. 34, *part*.

CHAPTER 285

**The Municipal and School Tax Credit
Assistance Act**

1. In this Act, “municipal taxes” means taxes imposed for municipal and school purposes in respect of real property assessed as residential or farm property and includes local improvement or other special rates. 1967, c. 56, s. 1.

Interpretation

2.—(1) Notwithstanding any general or special Act, the council of any local municipality may pass by-laws authorizing and directing the treasurer of the municipality to allow a credit or refund equivalent to one-half of the municipal taxes imposed in respect of any real property that is owned and occupied by a person, or by the husband or wife of such person, or by both, as his, her or their personal residence, where such person, or the husband or wife of such person, is sixty-five years of age or over, provided that,

Municipal and school tax credit by-law

- (a) no credit or refund shall exceed the sum of \$150 in any one year;
- (b) no credit or refund shall be allowed to any person in respect of more than one such property in any one year;
- (c) no credit or refund shall be allowed to any person who has not made application therefor in the year in which the municipal taxes in respect of which such credit or refund is claimed become due and payable;
- (d) a credit shall be allowed for municipal taxes imposed on any real property only on payment of the remaining portion of such municipal taxes;
- (e) no refund shall be allowed for municipal taxes imposed on any real property in any year unless such municipal taxes have been paid in full in that year; or
- (f) notwithstanding clause e, where the amount of an allowable credit of municipal taxes in any year is greater than the amount of such municipal taxes unpaid in that year, the difference between such amounts may be refunded and the unpaid portion may be allowed as a credit.

(2) Any by-law passed under this section may prescribe such regulations with respect to the administration thereof, not inconsistent with this section or the regulations made under this section, as the council of the municipality may consider proper.

Administration, regulations re

Lien on
real
property

(3) The amount of any such credit or refund allowed from time to time shall be a lien in favour of the Treasurer of Ontario upon the real property in respect of which such credit or refund has been so allowed and shall be in priority,

- (a) to any encumbrance upon such property arising before or after the date of registration of the notice mentioned in subsection 5 if the encumbrancer is a relative by blood or marriage of the person to whom the credit was allowed; or
- (b) to any other encumbrance upon such property arising after the date of registration of the notice mentioned in subsection 5.

When lien
payable

(4) The amount of such lien shall become due and be paid to the Treasurer of Ontario upon any change in ownership of such real property except,

- (a) where the new owner is the husband, wife, brother or sister of the person to whom a credit or refund was allowed and is a person entitled to a credit or refund under a by-law passed under this section; or
- (b) by way of a mortgage other than a sale or foreclosure under such mortgage.

Registration
of notice of
credit or
refund and
certificate of
discharge

(5) Where a by-law passed under this section is in force in a municipality, forthwith after a credit or refund has been allowed under such by-law for the first time in respect of any real property or for the first time after a lien under this Act in respect of any real property has been discharged, a notice signed by the treasurer of the municipality stating that a credit or refund has been allowed together with a description of the real property sufficient for registration shall be registered by him in the proper registry or land titles office and, upon payment in full to the Treasurer of Ontario by the owner of the real property or by someone on his behalf of the amount of all outstanding credits and refunds allowed in respect of such property, a certificate of the Treasurer of Ontario showing such payment shall be similarly registered, and thereupon the lien in respect of such real property is discharged.

Payment by
Province of
amount of
credits and
refunds
allowed

(6) Every local municipality that has passed a by-law under this Act may apply to the Department of Municipal Affairs, in the manner prescribed by the regulations made under this section, requesting that it be reimbursed for the amount of credits and refunds allowed under such by-law in any year, and the Treasurer of Ontario shall pay to the municipality the total amount of such credits and refunds in respect of real property against which notices have been registered under subsection 5.

(7) The Lieutenant Governor in Council may make regula- Regulations
tions prescribing forms for use under this Act and the manner in
which applications for reimbursement may be made and generally
for the administration of this Act. 1967, c. 56, s. 2.

3. Every board of a public school section, separate school zone School
or secondary school district in territory without municipal organi- boards in
zation has the powers of the council of a local municipality under territory
this Act, which applies *mutatis mutandis* to such a board, and, without
where the treasurer of a municipality is referred to in this Act, it municipal
shall be deemed a reference to the treasurer of such a board. organiza-
1967, c. 56, s. 3. tion

4. The moneys required for the purposes of this Act shall be Moneys out
paid out of the Consolidated Revenue Fund. 1967, c. 56, s. 4. of Con.
Rev. Fund

CHAPTER 286

The Municipal Arbitrations Act

1.—(1) An official referee may be appointed by the Lieutenant Governor in Council for any municipality to which this Act applies and he shall be the “Official Arbitrator” for the municipality for which he is appointed.

Appoint-
ment of
Official
Arbitrator
for specific
municipality

(2) The Official Arbitrator shall,

Powers, etc.,
of Official
Arbitrator
qualification

(a) be a judge of a county court or a barrister of at least ten years standing at the bar of Ontario;

(b) have all the powers of an official referee under *The Judicature Act* and of an arbitrator under *The Municipal Act* or under *The Arbitrations Act*;

powers
R.S.O. 1970,
cc. 228, 284,
25

(c) be an officer of the Supreme Court;

status

(d) not act as solicitor or counsel for or against the corporation or for any other municipal corporation;

disability

(e) have all the powers of a judge of the Supreme Court including those relating to the production of books and papers, the amendment of notices for compensation or damage and of all other notices and proceedings, the rectification of errors or omissions, the time and place of taking examinations and views, the assistance of valuers, appraisers, engineers, surveyors or other experts, and as respects all matters incident to the hearing and determination of matters before him or proper for doing complete justice therein between the parties, including the power of awarding costs. R.S.O. 1960, c. 250, s. 1 (2, 3); 1965, c. 78, s. 1, *part*.

other
powers

(3) Where there is an Official Arbitrator for a municipality to which this Act applies, all claims against the municipality or against such municipality and an adjoining municipality and all questions arising under any lease or contract to which the municipality is a party and which by by-law or the terms of the lease or contract are to be determined by arbitration shall be heard and determined by the Official Arbitrator.

Claims
against
municipality
having
Official
Arbitrator

(4) Where a claim is against a municipality and an adjoining municipality, each of which has an Official Arbitrator, neither municipality shall be deemed to have an Official Arbitrator. 1965, c. 78, s. 1, *part, amended*.

Claims
against two
municipal-
ities
having
Official
Arbitrators

Vacancy

2.—(1) The death of the Official Arbitrator or his ceasing to hold office from any cause pending a reference before him, before his award is made, does not abate the proceedings, but such reference shall be continued and all proceedings therein already taken shall be adopted, and an award made therein by his successor in office.

Deputy
Official
Arbitrator

(2) The Lieutenant Governor in Council may appoint a Deputy Official Arbitrator and, in case of the illness or absence or inability to act of the Official Arbitrator and during a vacancy in the office, the Deputy Official Arbitrator has all the powers and shall perform all the duties of the Official Arbitrator. R.S.O. 1960, c. 250, s. 2 (1, 2).

Deputy
Official
Arbitrator
for specific
municipality

(3) Where an Official Arbitrator has been appointed for a municipality under subsection 1 of section 1, a Deputy Official Arbitrator may be appointed for such municipality and he shall be the "Deputy Official Arbitrator" for the municipality for which he is appointed. R.S.O. 1960, c. 250, s. 2 (3); 1965, c. 78, s. 2.

Death of
claimant

(4) The death of the claimant pending a reference before the Official Arbitrator does not abate or determine the proceedings already taken before him, but such proceedings already taken may be continued by or against the legal representatives of the deceased, or by or against the person or persons upon whom the estate or interests of the deceased devolves. R.S.O. 1960, c. 250, s. 2 (4).

Commence-
ment of pro-
ceedings

3. If any person interested in any such claim or question desires that it should be determined by the Official Arbitrator, he shall give to the clerk of the municipality and to every other person interested seven clear days notice that it is so referred, specifying therein the nature of the claim or question to be determined, and the amount in controversy, and upon such notice, with proof of the service of it, being filed with him, the Official Arbitrator may proceed to hear and determine the matters so referred to him. R.S.O. 1960, c. 250, s. 3.

When
Official
Arbitrator
to state
reasons in
writing

4. Where the Official Arbitrator proceeds partly on view or upon any special knowledge or skill possessed by himself he shall put in writing as part of his reasons a statement of such matter sufficiently full to allow the Court of Appeal to determine the weight that should be attached to it. R.S.O. 1960, c. 250, s. 4.

Filing
award and
evidence

5. The award of the Official Arbitrator and exhibits and the reasons for his decision shall be filed in the office of the registrar of the Court of Appeal, and notice of the filing shall be given forthwith by the Official Arbitrator to the parties who appeared or were represented upon the reference or to their solicitors, and upon the request of any of the parties interested in the inquiry,

the notes taken by the shorthand writer, if any, shall be extended by him and, upon payment of his proper fees therefor, shall be filed with the registrar. R.S.O. 1960, c. 250, s. 5.

6. The award when so filed shall not be made public until all the fees payable to the Official Arbitrator have been paid to him. R.S.O. 1960, c. 250, s. 6.

Fees to be paid before award made public

7. The award may be appealed against to the Court of Appeal in the same manner as the decision of a judge of the Supreme Court sitting in court is appealed from, and is binding and conclusive upon all parties to the reference unless appealed from within six weeks after notice that it has been filed. R.S.O. 1960, c. 250, s. 7, *amended*.

Appeal to Court of Appeal

8. The time of any vacation of the Supreme Court shall not be reckoned in the computation of the time for doing any act or taking any proceeding in relation to the appeal. R.S.O. 1960, c. 250, s. 8.

Vacation

9. Where no appeal is taken within the prescribed time or when an appeal has been disposed of, the exhibits may be delivered out to the parties entitled to them. R.S.O. 1960, c. 250, s. 9.

Giving out exhibits when no appeal

10. Where an action has been brought or is pending, the court or a judge thereof, if of opinion that the relief sought is properly the subject of a proceeding under this Act, on the application of either party or otherwise, may at any stage of the action order it to be transferred to the Official Arbitrator on such terms as to costs and otherwise as may be considered proper, and the Official Arbitrator shall thereupon give such directions as to the prosecution of the claim before him as he may consider just and convenient, and subject to the provisions, if any, in respect thereto in the order of transfer, the costs of the action shall be in his discretion. R.S.O. 1960, c. 250, s. 10.

Transferring actions to Arbitrator

11. Costs awarded by the Official Arbitrator shall be taxed by one of the taxing officers of the Supreme Court, and shall be taxed upon such scale and be payable to such parties as may be determined by the Official Arbitrator. R.S.O. 1960, c. 250, s. 11.

How costs to be taxed

12.—(1) One-half of the fees and expenses of the Official Arbitrator is payable by each of the parties to the reference if only two parties are interested, and proportionately by all parties interested if a larger number than two are so interested; but the Official Arbitrator has power to award that any sum so paid or payable may be recoverable by any one or more of the parties from any other or others of them, and such fees and expenses are recoverable as any other costs of the arbitration.

By whom payable

Recovery of
fees

(2) If the award is not taken up within thirty days after service upon the parties of the notice of filing thereof, the fees and expenses of the Official Arbitrator are recoverable by action from any one or more of the parties to the arbitration.

Idem

(3) Nothing herein prejudicially affects the right of the Official Arbitrator to recover his fees or expenses in any way in which they may now be recovered. R.S.O. 1960, c.250, s. 12.

Power to
make rules
and tariff

13. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee has the same power to make rules with respect to matters and proceedings under this Act and tariffs of fees as it has in respect of proceedings under *The Judicature Act*. R.S.O. 1960, c. 250, s. 14.

R.S.O. 1970,
c. 228

Application
of Act

14.—(1) This Act extends and applies to cities having a population of not less than 100,000, to The Municipality of Metropolitan Toronto, The Regional Municipality of York and to the Borough of York, and to any municipality the council of which by by-law declares that it is desirable that the municipality be brought within the provisions of this Act, and in such case this Act shall be read as though it had been expressly applied to such municipality by the terms thereof. R.S.O. 1960, c. 250, s. 15 (1); 1965, c. 78, s. 4, *amended*.

Repeal of
by-law
bringing Act
into force

(2) The council of a municipality that has passed a by-law under subsection 1 may repeal it at any time after the expiration of six months from the passing of the by-law, and upon such repeal this Act ceases to apply or be in force in the municipality. R.S.O. 1960, c. 250, s. 15 (2).

CHAPTER 287

The Municipal Corporations Quieting Orders Act**1.** In this Act,Interpre-
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Department" means the Department of Municipal Affairs;
- (c) "municipality" means a county, city, town, village or township;
- (d) "quieting order" means an order establishing the legal existence or corporate status of a municipality, or establishing its proper area and boundaries or any of its boundaries, in order to quiet doubts affecting the same. R.S.O. 1960, c. 251, s. 1.

2.—(1) Upon the application of the council of a municipality, the Board may make a quieting order respecting the municipality.

Power to
make
quieting
order

(2) A quieting order may be made retroactive in its effect and operation for the purpose and to the extent provided therein, except that it does not affect or prejudice the rights of any person in any action, litigation or other proceeding pending at the time when the order is made. R.S.O. 1960, c. 251, s. 2.

Retroactive
effect of
order

3.—(1) Where the council of a municipality is aware of any doubt affecting the legal existence or corporate status or proper area and boundaries of the municipality, or any of its boundaries, it may apply to the Board for a quieting order. R.S.O. 1960, c. 251, s. 3 (1).

Application
for quieting
order

(2) The application shall be in duplicate, shall specify the nature of the doubt that exists and shall be accompanied by a proposed description of the boundaries to be established. 1968, c. 77, s. 1.

Particulars
of
application

(3) Upon receipt of an application for a quieting order, the secretary of the Board shall transmit one copy to the Department. 1968-69, c. 75, s. 1.

Duplicate
copy for
Department

4.—(1) Except as provided in subsections 2, 3 and 4, the Board before making any order under section 2 shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the

Public
hearing

application and of hearing any objections that any person may desire to bring to the attention of the Board.

Notice to
provide for
filing of
objections

(2) The Board may direct that the notice to be given shall state that anyone objecting to the making of a quieting order may, within such time from the giving of the notice as may be prescribed by the Board, file his objection to the making of the quieting order with the clerk of the municipality that has made the application, or on whose behalf the application has been made by the Department.

Where no
objection
filed

(3) Where notice has been given under subsection 2, the Board may, when no notice of objection has been filed with the clerk within the time specified in the notice, make a quieting order respecting the municipality without holding a public hearing.

Where
objections
filed

(4) If one or more objections have been filed with the clerk within the time specified in the notice, the Board shall hold a public hearing. 1968-69, c. 75, s. 2.

Effect of
quieting
order

5. Every quieting order made by the Board is according to its tenor valid and binding for all purposes and upon all municipalities and persons. R.S.O. 1960, c. 251, s. 5.

Publication
of quieting
orders

6. Forthwith after the issue of a quieting order, the applicant shall,

- (a) publish the order locally in such manner as the Board may direct;
- (b) publish in *The Ontario Gazette* notice of the making of the order and the date thereof;
- (c) file a certified copy with the Department; and
- (d) register a certified copy in the proper registry office, as in the case of an order of the Board registered under section 67 of *The Registry Act*, which section applies. R.S.O. 1960, c. 251, s. 6; 1968, c. 77, s. 2.

R.S.O. 1970,
c. 409

Powers of
Department

7. The Department may,

- (a) authorize the board of trustees of an improvement district or of a police village to apply under this Act for a quieting order with respect to the improvement district or police village, as the case may be, and for such purpose all the provisions of this Act *mutatis mutandis* apply;
- (b) require the council of any municipality to apply for a quieting order with respect to the municipality and upon neglect or failure of the council to apply for the order within sixty days after being so required, the

Department may on behalf of the council and in the name of the municipality apply to the Board for the quieting order. R.S.O. 1960, c. 251, s. 7.

8. The fee payable upon an application under this Act shall be fixed by the Board, but shall not exceed \$15. R.S.O. 1960, c. 251, s. 8; 1968, c. 77, s. 3. ^{Fee of Board}

CHAPTER 288

The Municipal Franchise Extension Act

1.—(1) Subject to section 2, the council of a local municipality may pass a by-law providing for a resident voters' list. Resident voters' list

(2) Every person is entitled to be entered on the resident voters' list who, Qualification

(a) is or will be of the full age of twenty-one years on or before the 1st day of October in the year in which the resident voters' list is to be prepared;

(b) is a British subject by birth or naturalization;

(c) has resided in the municipality for the last twelve months next preceding the 1st day of January of the year in which the resident voters' list is to be prepared;

(d) is not entitled to be entered on the voters' list prepared under *The Voters' Lists Act*; and R.S.O. 1970, c. 485

(e) is not disqualified under any Act or otherwise prohibited by law from voting. R.S.O. 1960, c. 254, s. 1.

2. A by-law shall not be passed under section 1 until the following question has received the assent of the municipal electors at a regular municipal election: Question to be submitted to electors

Are you in favour of extending the right to vote at municipal elections for members of council to all persons of the full age of twenty-one years who are British subjects and who have resided in the municipality for at least one year in accordance with *The Municipal Franchise Extension Act*? R.S.O. 1960, c. 254, s. 2.

3.—(1) The names of the persons entitled to be entered on the resident voters' list shall be obtained by the assessor during the taking of the assessment in the year. Preparation of list

(2) The assessor shall call at least once at every place of residence in the municipality and shall secure the names and addresses of all persons who are entitled to be entered on the resident voters' list. Duties of assessor

(3) The assessor shall take all necessary precautions to ensure that his list, when complete, contains the names and addresses of persons entitled to be entered on the resident voters' list that he has been able to obtain and does not contain the name of any Idem

person not so entitled and he shall deliver such list to the clerk of the municipality not later than the day fixed for the return of the assessment roll.

Registration
form

(4) Where the assessor is unable to obtain the required information at any place of residence, he shall leave such number of Form 1 as he considers necessary at such place of residence.

Filing of
registration
form

(5) When the name and address of any person entitled to be entered on the resident voters' list cannot be obtained by the assessor, such person may complete Form 1 and file it with the clerk of the municipality not later than the day fixed for the return of the assessment roll. R.S.O. 1960, c. 254, s. 3.

List to be
prepared
by clerk

4. The clerk of the municipality shall prepare the resident voters' list from the assessor's list and the Forms filed with him under subsection 5 of section 3 by listing the names and addresses appearing thereon, except those that also appear on the voters' list prepared under *The Voters' Lists Act*, in the same order as in such voters' list and, where the municipality is divided into polling subdivisions, shall prepare a separate list for each subdivision. R.S.O. 1960, c. 254, s. 4.

Application
of R.S.O.
1970, c. 485

5. Sections 9 to 23 of *The Voters' Lists Act* apply *mutatis mutandis* to the resident voters' list. R.S.O. 1960, c. 254, s. 5.

Effect of
certified
list

6. The certified resident voters' list is final and conclusive evidence that every person named thereon is entitled to vote at municipal elections for members of council and on questions upon which the opinion of the electors is to be obtained where no expenditure of funds would result from an affirmative vote, except,

- (a) persons not resident in the municipality on the day of polling; and
 - (b) persons guilty of corrupt practices at or in respect of the election in question, or since the list was certified.
- R.S.O. 1960, c. 254, s. 6; 1965, c. 79, s. 1.

Right to
vote on
matters
mentioned

7. Notwithstanding any other Act, the persons named on the certified resident voters' list are not entitled to vote at a municipal election on any matter not specifically mentioned in section 6. 1965, c. 79, s. 2.

Persons
on list not
counted
under
R.S.O. 1970,
c. 284

8. Persons entered on the resident voters' list shall not be counted as municipal electors for the purpose of section 34 of *The Municipal Act*. R.S.O. 1960, c. 254, s. 7.

Oath to be
administered
to voter

9. When a person entered on the resident voters' list is required to take an oath under section 94 of *The Municipal Act*, the oath shall be in Form 2. R.S.O. 1960, c. 254, s. 8.

10. Every person who knowingly makes an untrue statement to an assessor or in any form under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100. R.S.O. 1960, c. 254, s. 9.

Offence,
untrue
statement
in form

FORM 1

(Section 3 (4, 5))

THE MUNICIPAL FRANCHISE EXTENSION ACT

Municipality

Polling Subdivision No.....

I, the undersigned, hereby request that my name be entered in the resident voters' list and certify that the information given herein is correct.

Full name.....

Present address.....

Are you a British subject?.....

Are you or will you be twenty-one years of age or over on or before the 1st day of October (*insert year*)?.....

Have you resided in..... (*name of municipality*)
for the last twelve months next preceding the 1st day of January (*insert year*)?

.....
Date

Signature

NOTE: If you wish your name entered on the resident voters' list, this form must be filed with the municipal clerk not later than (*insert the day fixed for the return of the assessment roll*).

FORM 2

(Section 9)

THE MUNICIPAL FRANCHISE EXTENSION ACT

OATH TO BE ADMINISTERED TO A VOTER

You swear (*or solemnly affirm*):

1. That you are the person named or intended to be named by the name of in the resident voters' list now shown to you.
2. That you are a British subject by birth or naturalization of the full age of twenty-one years.
3. That you have resided in (*name of municipality*) for the last twelve months next preceding the 1st day of January (*insert year*) and that you reside in such municipality on the day of polling.
4. That you have not voted before at this election at this or any other polling place.
5. That you have not, directly or indirectly, received any reward or gift, nor do you expect to receive any, for the vote which you tender.
6. That you have not received anything, nor has anything been promised you, directly or indirectly, to induce you to vote at this election.
7. That you have not directly or indirectly, paid or promised anything to any person to induce him to vote or to refrain from voting at this election.

R.S.O. 1960, c. 254, Form 2.

CHAPTER 289

The Municipal Franchises Act

1. In this Act, Interpre-
tation

- (a) "franchise" includes any right or privilege to which this Act applies;
- (b) "gas" means natural gas, manufactured gas or any liquefied petroleum gas, and includes any mixture of natural gas, manufactured gas or liquefied petroleum gas, but does not include a liquefied petroleum gas that is distributed by a means other than a pipe line;
- (c) "highway" includes a street and a lane;
- (d) "public utility" includes waterworks, natural and other gas works, electric light, heat or power works, steam heating works, and distributing works of every kind. R.S.O. 1960, c. 255, s. 1.

2. A municipal corporation shall not enter into or renew any contract for the supply of electrical power or energy to the corporation or to the inhabitants thereof until a by-law setting forth the terms and conditions of the contract has been first submitted to, and has received the assent of the municipal electors in the manner provided by *The Municipal Act*. R.S.O. 1970, c. 284
Assent to
contracts
for supply
of electric
power

3.—(1) A municipal corporation shall not grant to any person nor shall any person acquire the right to use or occupy any of the highways of the municipality except as provided in *The Municipal Act*, or to construct or operate any part of a transportation system or public utility in the municipality, or to supply to the corporation or to the inhabitants of the municipality or any of them, gas, steam or electric light, heat or power, unless a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted or acquired has been assented to by the municipal electors. Where assent
required

(2) Subsection 1 does not apply to The Hydro-Electric Power Commission of Ontario. Hydro-
Commission
exempt

(3) Where the trustees of a police village request the council of the township in which the village is situate to grant any such right with respect to the village, or where the board of trustees of a police village desire to grant such a right, it is a sufficient compliance with subsection 1 if the by-law receives the assent of the municipal electors of the village. In police
villages

Renewals
and
extensions

(4) This section applies to the renewal or extension of an existing franchise. R.S.O. 1960, c. 255, s. 3.

Consent of
council of
city, when
required

4.—(1) The council of a local municipality shall not grant a franchise upon any highway of the municipality within a radius of five miles of the boundary of any city without notice in writing to the council of the city, and if the council of the city, within four weeks after the receipt of the notice, gives a notice in writing to the council of the local municipality that it objects to the granting of the franchise the approval of the Ontario Municipal Board shall be obtained, and if the council of the city does not give such notice within such time, it shall be deemed to have no objection and the council of the local municipality may grant the franchise with the assent of the municipal electors of the local municipality as provided by section 3.

Gas
franchises

(2) Where the franchise referred to in subsection 1 is a gas franchise, the Ontario Energy Board shall take the place of the Ontario Municipal Board for the purposes of this section. R.S.O. 1960, c. 255, s. 4.

Extension
of certain
existing
works not
to be made
without
by-law

5.—(1) Where a by-law granting a franchise or right in respect of any of the works or services mentioned in subsection 1 of section 3, which has not been assented to by the municipal electors as provided by that subsection, was passed before the 16th day of April, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law hereafter passed with the assent of the municipal electors, as provided by subsection 1 or subsection 3 of section 3, and such consent is necessary, notwithstanding that such last-mentioned by-law is expressly limited in its operation to a period not exceeding one year.

Exceptions
as to
franchises
granted
before 16th
March, 1909

(2) Subsection 1 does not apply to a franchise or right granted by or under the authority of any general or special Act of the Legislature before the 16th day of March, 1909, but no such franchise or right shall be renewed, nor shall the term thereof be extended by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3. R.S.O. 1960, c. 255, s. 5.

Exceptions:

6.—(1) Subject to section 2 and except as therein provided and except where otherwise expressly provided, this Act does not apply to a by-law,

works
originating
in another
municipality

(a) granting the right of passing through the municipality for the purpose of continuing a line, work or system that is intended to be operated in or for the benefit of another municipality and is not used or operated in the municipi-

pality for any other purpose except that of supplying gas in a township to persons whose land abuts on a highway along or across which the same is carried or conveyed, or to persons whose land lies within such limits as the council by by-law passed from time to time determines should be supplied with any of such services;

- (b) granting the right of passing through the municipality with a line to transmit gas not intended to be distributed from such line in the municipality or only intended to be distributed from such line in the municipality to a person engaged in the transmission or distribution of gas; gas transmission lines
- (c) conferring the right to construct, use and operate works required for the transmission of oil, gas or water not intended for sale or use in the municipality; or oil, gas and waterworks
- (d) that is expressly limited in its operation to a period not exceeding three years and is approved by the Ontario Municipal Board. R.S.O. 1960, c. 255, s. 6 (1); 1965, c. 80, s. 1; 1966, c. 94, s. 1. limited to three years

(2) Where the by-law within the meaning of clause *d* of subsection 1 is a gas franchise by-law, the Ontario Energy Board shall take the place of the Ontario Municipal Board for the purposes of the clause. R.S.O. 1960, c. 255, s. 6 (2). Gas franchises

7.—(1) Where a by-law to which clause *d* of subsection 1 of section 6 applies is passed, that clause does not apply to any subsequent by-law in respect of the same works or any part of them or to an extension of or addition to them, although the subsequent by-law is expressly limited in its operation to a period not exceeding three years, and no such subsequent by-law has any force or effect unless it is assented to by the municipal electors as provided by subsection 1 of section 3. R.S.O. 1960, c. 255, s. 7; 1966, c. 94, s. 2. Extension of franchise

(2) Notwithstanding subsection 1, clause *d* of subsection 1 of section 6 applies to a subsequent by-law or by-laws in respect of the same works or any part of them or to an extension of or addition to them if the period of operation of such subsequent by-law or by-laws is expressly limited so that the total period of operation of the original by-law and the subsequent by-law or by-laws does not exceed three years. 1970, c. 128, s. 1. Idem

8.—(1) Notwithstanding any other provision in this Act or any other general or special Act, no person shall construct any works to supply or supply, Approval for construction of gas works or supply of gas in municipality

- (a) natural gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas; or

- (b) gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas and in which gas was then being supplied,

without the approval of the Ontario Energy Board, and such approval shall not be given unless public convenience and necessity appear to require that such approval be given.

Form of
approval

(2) The approval of the Ontario Energy Board shall be in the form of a certificate.

Jurisdiction
of Energy
Board

(3) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and to grant or refuse to grant any certificate of public convenience and necessity, but no such certificate shall be granted or refused until after the Board has held a public hearing to deal with the matter upon application made to it therefor, and of which hearing such notice shall be given to such persons and municipalities as the Board may consider to be interested or affected and otherwise as the Board may direct. R.S.O. 1960, c. 255, s. 8.

Gas
franchise
by-law to be
approved by
Energy
Board

9.—(1) No by-law granting,

- (a) the right to construct or operate works for the distribution of gas;
- (b) the right to supply gas to a municipal corporation or to the inhabitants of a municipality;
- (c) the right to extend or add to the works mentioned in clause *a* or the services mentioned in clause *b*; or
- (d) a renewal of or an extension of the term of any right mentioned in clause *a* or *b*,

shall be submitted to the municipal electors for their assent unless the terms and conditions upon which and the period for which such right is to be granted, renewed or extended have first been approved by the Ontario Energy Board.

Jurisdiction
of Energy
Board

(2) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and may give or refuse its approval.

Hearing to
be held

(3) The Ontario Energy Board shall not make an order granting its approval under this section until after the Board has held a public hearing to deal with the matter upon application therefor and of which hearing such notice shall be given in such manner and to such persons and municipalities as the Board may direct.

Electors'
assent may
be dispensed
with

(4) The Board, after holding a public hearing upon such notice as the Board may direct and if satisfied that the assent of the municipal electors can properly under all the circumstances be dispensed with, may in any order made under this section declare

and direct that the assent of the electors is not necessary. R.S.O. 1960, c. 255, s. 9.

10.—(1) Where the term of a right to operate works for the distribution of gas or to supply gas to a municipal corporation or to the inhabitants of a municipality has expired or will expire within one year, either the municipality or the party having the right may apply to the Ontario Energy Board for an order for a renewal of or an extension of the term of the right. Application to Energy Board for renewal, etc., of gas franchise

(2) The Ontario Energy Board has and may exercise jurisdiction and power necessary for the purposes of this section and, if public convenience and necessity appear to require it, may make an order renewing or extending the term of the right for such period of time and upon such terms and conditions as may be prescribed by the Board, or if public convenience and necessity do not appear to require a renewal or extension of the term of the right, may make an order refusing a renewal or extension of the right. Powers of Energy Board

(3) The Board shall not make an order under subsection 2 until after the Board has held a public hearing upon application therefor and of which hearing such notice shall be given in such manner and to such persons and municipalities as the Board may direct. Hearing

(4) Notwithstanding subsection 3, where an application has been made under subsection 1 and the term of the right has expired or is likely to expire before the Board disposes of the application, the Board, on the written request of the applicant, and without holding a public hearing, may make such order as may be necessary to continue the right until an order is made under subsection 2. Interim order

(5) An order of the Board under subsection 2 renewing or extending the term of the right or an order of the Board under subsection 4 shall be deemed to be a valid by-law of the municipality concerned for the purposes of section 58 of *The Public Utilities Act*. 1968-69, c. 76, s. 1, *part*. Order deemed by-law for R.S.O. 1970, c. 390, s. 58

(6) An application may not be made under this section in respect of a right that has expired before the 2nd day of December, 1969. 1968-69, c. 76, s. 1, *part, amended*. Right expired before commencement of section

11. With leave of a judge thereof, an appeal lies upon any question of law or fact to the Court of Appeal from any certificate granted under section 8 or any order made under section 9 or 10 if application for leave to appeal is made within fifteen days from the date of the certificate or order, as the case may be, and the rules of practice of the Supreme Court apply to any such appeal. R.S.O. 1960, c. 255, s. 10; 1968-69, c. 76, s. 2. Appeal

CHAPTER 290

The Municipal Health Services Act

1. In this Act,Interpre-
tation

- (a) "Board" means the Ontario Municipal Health Services Board established under this Act;
- (b) "Minister" means the Minister of Health;
- (c) "municipality" means a local municipality as defined in *The Municipal Act* and includes an improvement district and a school section in an unorganized township or unsurveyed territory;
- (d) "municipal health services" has the meaning prescribed in the regulations. R.S.O. 1960, c. 256, s. 1.

R.S.O. 1970,
c. 284

2.—(1) The council of a municipality or the councils of two or more municipalities that have entered into an agreement therefor may by by-law provide for the establishment of a plan of municipal health services for the municipality or municipalities.

Plan of
health
services

(2) No agreement shall be entered into and no by-law shall be introduced under this section until the plan provided for therein has been approved by the Lieutenant Governor in Council R.S.O. 1960, c. 256, s. 2.

Approval of
Lieutenant
Governor
in Council

3.—(1) No by-law passed and approved under section 2 comes into force or has effect until the proposed plan has been submitted, either at the next municipal election or at such time as the council or councils may decide, to a vote as provided in this section.

Vote on
by-law

(2) Where the entire cost of the proposed plan, except any portion that is to be paid by provincial contribution, is to be borne by a special rate imposed on the rateable property in the municipality, the proposed plan shall be submitted to a vote of the persons entitled to vote on money by-laws and unless a majority of the persons voting are in favour of the proposed plan, the plan shall not be established.

where
property tax

(3) Where the entire cost of the proposed plan, except any portion that is to be paid by provincial contribution, is to be borne by a personal tax on the residents of the municipality, the proposed plan shall be submitted to a vote of the municipal electors and unless a majority of the persons voting are in favour of the proposed plan, the plan shall not be established.

where
personal tax

where
both taxes

(4) Where part of the cost of the proposed plan is to be borne by a special rate imposed on the rateable property in the municipality, and the balance of the cost, except any portion that is to be borne by provincial contribution, is to be borne by a personal tax on the residents of the municipality, the proposed plan shall be submitted to a vote of the municipal electors and to a further vote of persons entitled to vote on money by-laws and unless a majority of the municipal electors so voting and a majority of the persons entitled to vote on money by-laws so voting are in favour of the proposed plan, the plan shall not be established. R.S.O. 1960, c. 256, s. 3.

Board

4.—(1) There shall be a board known as the Ontario Municipal Health Services Board which is a body corporate and shall consist of not less than seven and not more than ten members who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Chairman

(2) The Board shall appoint one of its members to be chairman.

Powers and
duties

(3) The powers and duties of the Board shall be defined in the regulations and, subject to the approval of the Lieutenant Governor in Council, the Board may,

- (a) enter into an agreement with any municipality that has enacted a by-law under section 2; and
- (b) enter into an agreement with any person or with any medical, hospital or other association, corporate or otherwise, for the provision of municipal health services for any municipality that has entered into an agreement with the board.

Receiving
and dis-
bursement
of moneys

(4) The Board may receive from any municipality that has enacted a by-law under section 2 all moneys collected by the municipality for the purpose of providing municipal health services and may disburse such moneys for the purpose of securing the provision of municipal health services and any expenses incidental thereto. R.S.O. 1960, c. 256, s. 4.

Municipal
committee

5. The council of any municipality that has enacted a by-law under section 2 may appoint a committee of its members, or of other persons, which shall consist of not less than three and not more than five members, and the committee shall assist and advise the council in respect of any matter arising under this Act. R.S.O. 1960, c. 256, s. 5.

Personal tax

6.—(1) For the purposes of carrying out the provisions of any by-law under this Act the council of a municipality may levy and collect a personal tax in respect of every male and female resident in the municipality who is seventeen years of age or over.

(2) The parent of a dependent child who is seventeen years of age or over and less than twenty-one years of age is liable for the payment of the tax in respect of such child and a husband is liable for the payment of the tax in respect of his wife.

Liability of parent and husband

(3) Every person liable to pay a personal tax shall pay the tax to the treasurer of the municipality within one week of the date upon which the tax becomes due and payable under the by-law providing therefor, and in case of neglect or refusal to make such payment the collector may levy the amount of the tax and costs of distress by distress and sale of the goods and chattels of such person.

Time for payment

(4) The assessor of the municipality may require any employer, whether the business of such employer is situate within or outside the municipality, to furnish him with a list of those of his employees who are resident within the municipality, and of the dates upon which they are paid their salary or wages, and every such employer shall advise the assessor of any changes therein that may occur.

Returns from employers

(5) The treasurer of the municipality may require any employer, whether the business of such employer is situate within or outside the municipality, to deduct from the salary or wages of all employees residing within the municipality the amounts that are payable to the municipality under this section and to pay such amounts to the municipality, and in the event that the employer fails or neglects to comply with such requirement he is personally liable for the amounts so payable. R.S.O. 1960, c. 256, s. 6.

Deduction by employer

7. For the purpose of carrying out the provisions of any by-law under this Act, the council of a municipality may levy and collect a special rate upon all the rateable property within the municipality and all the provisions of *The Municipal Act* applicable to the levying and collecting of local rates apply to the special rate levied under this Act. R.S.O. 1960, c. 256, s. 7.

Property tax

R.S.O. 1970, c. 284

8.—(1) In a municipality in which a plan has been adopted, the assessor shall include in the assessment roll the name of every person who is a resident of the municipality within the meaning of the regulations and where part of the cost of the plan is to be borne by a personal tax the assessor shall enter after the name of every person who is liable to such tax the letters "P.T."

Assessment rolls

(2) Where the council of a municipality passes a resolution favouring the establishment of a plan of municipal health services, the council may direct the assessor to comply with the requirements of subsection 1 in the preparation of the next assessment roll. R.S.O. 1960, c. 256, s. 8.

Idem

9. A municipality shall pay to the Board an amount equal to the total levy made under section 6 or 7, or both, at such times as may be required by the regulations. R.S.O. 1960, c. 256, s. 9.

Amount of taxes payable to Board

No liability
to county

10. A municipality that has established a plan of municipal health services that includes hospital care under this Act is not required to contribute to any levy made by a county for the costs of providing hospital care for indigent persons who are residents of the county. R.S.O. 1960, c. 256, s. 10.

Unorganized
territory

11. The Lieutenant Governor in Council may make provision for furnishing municipal health services to the residents of any area that is without municipal organization and does not form part of a school section. R.S.O. 1960, c. 256, s. 11.

Contri-
butions by
Province

12. The Lieutenant Governor in Council may provide for the making of annual or other contributions to any municipality that has passed a by-law under this Act. R.S.O. 1960, c. 256, s. 12.

Consolidated
Revenue
Fund

13. Expenses incurred under section 11 and contributions made under section 12 shall be paid out of the Consolidated Revenue Fund. R.S.O. 1960, c. 256, s. 13.

Further vote
on plan

14. At the first municipal election held after the termination of a period of three years from the date of the commencement of a plan for municipal health services, the plan shall again be submitted to a vote as in section 3 provided and shall not continue in force unless a majority of the persons voting as prescribed in section 3 are in favour thereof. R.S.O. 1960, c. 256, s. 14.

Alteration
of plan

15.—(1) A plan for municipal health services established under this Act shall not be altered or terminated except with the like approval as required by section 2.

Amendment
of by-law

(2) A by-law made under this Act shall be amended or repealed only with the like vote as is required for a by-law made under section 3.

Termination
of plan

(3) The Lieutenant Governor in Council may terminate any plan for municipal health services and thereupon every by-law and agreement relating thereto shall be deemed to be revoked and terminated. R.S.O. 1960, c. 256, s. 15.

Termination
of plan,
moneys
on hand

16. Where a scheme is terminated, the Lieutenant Governor in Council may provide for the disposition and application of any moneys collected under the provisions of this Act that are not required for the purpose of the plan. R.S.O. 1960, c. 256, s. 16.

Regulations

17. Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations which may be general or particular in their application,

(a) respecting the establishment of municipal health services;

(b) defining "municipal health services" and prescribing

- the type of service and the maximum services that may be provided under any plan;
- (*c*) defining the powers and duties of the Board and providing for the employment of assistants and the payment of the expenses of the Board out of such moneys as may come into its hands;
 - (*d*) governing the amount and conditions of payment of provincial contributions;
 - (*e*) defining the term "resident";
 - (*f*) prescribing the periods within which a resident is liable for the payment of the rates and taxes imposed under this Act and the periods during which a resident is entitled to municipal health services in the municipality;
 - (*g*) prescribing the dates upon which any rates or taxes levied in the municipality shall become due and payable and the manner in which they shall be paid;
 - (*h*) providing for the exemption from taxation of any class of persons who are dependent in whole or in part upon contributions from public funds for their maintenance;
 - (*i*) providing for the cancellation or reduction of the taxes of any person who from sickness or extreme poverty is unable to pay the taxes;
 - (*j*) providing for the exemption from any tax imposed by this Act, or any portion thereof, of any class or group of persons who contribute to a plan for the provision of medical services or health services;
 - (*k*) providing for the exemption of duly accredited members and adherents of any religious denomination designated by the regulations from any tax imposed under section 6 and from any tax imposed under section 7 in respect of such portion of any premises as may be owned and occupied as a residence by any such member or adherent, upon such terms and conditions as may be prescribed;
 - (*l*) providing for the cancellation or reduction of the taxes of any person who by reason of any gross or manifest error has been charged or overcharged;
 - (*m*) providing for the appointment of inspectors and prescribing their powers and duties;
 - (*n*) requiring the Board to report to the Minister;
 - (*o*) prescribing forms and providing for their use;
 - (*p*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

CHAPTER 291

The Municipal Subsidies Adjustment Act

1. Where a municipality is,

- (a) amalgamated with an urban municipality or municipalities; or
- (b) annexed in whole or in part or parts to an urban municipality or municipalities,

Adjustment
of grants on
amalgama-
tions and
annexations

the Minister of Highways shall adjust the provincial grants or subsidies payable under *The Highway Improvement Act* so that such grants or subsidies will be payable on the same basis for a period of five years after the amalgamation or annexation as they would have been if the amalgamation or annexation had not taken place, and shall further adjust such grants or subsidies on a progressively reduced basis during the next succeeding five years. R.S.O. 1960, c. 257, s. 1.

R.S.O. 1970,
c. 201

2. Section 1 applies only where the area annexed in any year contains 10 per cent or more of the resident population of the municipality from which the area is detached, as certified by the clerk of such municipality. R.S.O. 1960, c. 257, s. 2.

Application
of sec. 1

3.—(1) The Minister of Municipal Affairs shall in each year adjust the payments to municipalities under *The Municipal Unconditional Grants Act* so that no municipality shall receive less in such year under *The Municipal Unconditional Grants Act*, *The Fire Departments Act* and *The Police Act* than it received in 1953 in respect of the maintenance and operation of its fire department and police force under *The Fire Departments Act* and *The Police Act* and in respect of the one mill subsidy.

Adjustment
of payments
under R.S.O.
1970, c. 293

R.S.O. 1970,
cc. 169, 351

(2) This section does not apply to a municipality the population of which, due to a decrease in population, has been redetermined under subsection 3 of section 4 of *The Municipal Unconditional Grants Act*. R.S.O. 1960, c. 257, s. 3.

Proviso

4. Notwithstanding *The Municipal Unconditional Grants Act*, where part of a rural municipality having a taxable assessment of less than 15 per cent of the total taxable assessment of such rural municipality is annexed to an urban municipality, the Minister of Municipal Affairs shall adjust the payments under that Act for the first five years immediately following the annexation, so that,

Adjustment
of payments
under
R.S.O. 1970,
c. 293 on
annexations

- (a) the rural municipality shall receive a per capita payment under that Act on the assessed population of the

annexed area at the time of the annexation at the per capita rate to which it was entitled on the day immediately preceding the time of annexation; and

- (b) the urban municipality shall receive a per capita payment under that Act on the assessed population of the annexed area at the time of the annexation at a per capita rate equal to the amount, if any, by which the per capita rate to which the urban municipality is entitled exceeds the per capita rate to which the rural municipality was entitled on the day immediately preceding the time of annexation. R.S.O. 1960, c. 257, s. 4.

CHAPTER 292

The Municipal Tax Assistance Act

1. In this Act,Interpre-
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Crown agency" means an agency of the Crown in right of Ontario, but does not include The Hydro-Electric Power Commission of Ontario;
- (c) "Department" means the Department of Municipal Affairs;
- (d) "highways" means highways, docks, ferries, wharfs, parking lots in connection therewith, land held to provide clear view at road junctions and railroad crossings, and land acquired and held for future highways;
- (e) "municipality" means a city, town, village, township or improvement district;
- (f) "provincial property" means real property owned by the Crown in right of Ontario or by any Crown agency, but does not include property owned or held in trust by The Hydro-Electric Power Commission of Ontario;
- (g) "rates levied for general municipal purposes" includes all levies upon real property made by a municipality except levies for school purposes and levies on business assessment;
- (h) "real property" includes buildings and structures erected thereon. R.S.O. 1960, c. 258, s. 1.

2.—(1) Nothing in this Act confers a right to a payment.

Limitation

(2) Nothing in this Act authorizes a municipality to levy taxes on provincial property or against the Crown in right of Ontario or any Crown agency. R.S.O. 1960, c. 258, s. 2. Idem

3.—(1) All provincial property in a municipality shall be valued in each year for the purposes of this Act by the Department. Valuation

(2) The valuation shall be made on the same basis as real property liable for municipal taxation in the municipality is valued. Basis

(3) Real property of railroads owned by the Crown in right of Ontario or any Crown agency in a municipality shall be valued in Railroads

- the same way, on the same basis, and to the same extent as railroads in the municipality are valued under *The Assessment Act*.
- R.S.O. 1970, c. 32
- Valuation notice (4) The Department shall, on completion of the valuation of the provincial property in a municipality, deliver or mail to the clerk of the municipality a notice setting out the valuation on each parcel of provincial property in the municipality.
- Idem (5) The Department shall also deliver or mail a copy of such notice to any agency of the Crown in right of Ontario in respect of land owned by such agency.
- Exception (6) This Act does not apply to unpatented lands, public lands set apart as a wilderness area, provincial property used for park purposes including the buildings in the parks, hospitals, penal and reform institutions, educational institutions, museums and libraries, highways, correctional institutions, cemeteries, minerals, farms operated by institutions, experimental and demonstration farms, cooling stations, weigh-scales and inspection stations, fish hatcheries, provincial forests and real property subject to municipal taxation under section 26 of *The Assessment Act*, or acquired or held for the purpose of a housing project, or any provincial property for which, in the opinion of the Minister of Municipal Affairs, municipal services are not available.
- Minister's decision (7) The decision of the Minister of Municipal Affairs as to whether this Act applies to any provincial property is final. R.S.O. 1960, c. 258, s. 3, *amended*.
- Appeals **4.—**(1) The municipality, the Department on behalf of the Crown in right of Ontario or on behalf of any Crown agency, and any Crown agency in respect of provincial property owned or occupied by it, may appeal to the Board against the valuation.
- Notice (2) A notice of appeal to the Board under this section shall be sent by the party appealing, by registered mail, to the secretary of the Board within twenty-one days after the notice of the valuation has been delivered or mailed under subsection 4 of section 3.
- Hearing (3) Upon receipt of a notice of appeal under this section, the secretary of the Board shall arrange a time and place for hearing the appeal and shall send notice thereof to all parties concerned in the appeal at least fourteen days before the hearing.
- Jurisdiction on appeal (4) The Board upon appeal shall determine the amount at which the property in question shall be valued.
- Decision final (5) The decision of the Board is final and binding and there is no appeal therefrom. R.S.O. 1960, c. 258, s. 4.
- Payments **5.—**(1) The Department, in respect of provincial property owned by the Crown in right of Ontario and not occupied by a

Crown agency, may pay in each year to the municipality in which the property is situate the amount which the rate levied for general municipal purposes on the assessment for real property that is used as a basis for computing business assessment in that municipality, based on the value determined for such provincial property in the preceding year under this Act, would produce.

(2) Every Crown agency, in respect of provincial property Idem owned or occupied by it, may pay in each year to the municipality in which the property is situate the amount which the rate levied for general municipal purposes on the assessment for real property that is used as a basis for computing business assessment in that municipality, based on the value determined for such provincial property in the preceding year under this Act, would produce.

(3) Where the Crown in right of Ontario or any Crown agency Business occupies or uses land for the purpose of, or in connection with any business, the Department or the Crown agency, as the case may be, may pay to the municipality in which the land is situate the amount that the current rates for general municipal purposes on business assessment would produce in respect of the carrying on of such business on the land.

(4) For the purposes of subsection 3, the legislative, executive Idem and administrative activities of the Government of Ontario shall not be deemed to be the carrying on of a business. R.S.O. 1960, c. 258, s. 5 (1-4).

(5) Notwithstanding subsection 6 of section 3, sections 62 and Local
improve-
ment and
drainage
assessments
R.S.O. 1970,
cc. 255, 136 63 of *The Local Improvement Act* and subsection 6 of section 40 of *The Drainage Act*, the Department or the Crown agency may pay local improvement and drainage assessments in respect of any provincial property. 1968, c. 78, s. 1.

6.—(1) In respect of provincial property owned and occupied Funds for
payments by the Crown in right of Ontario, the moneys required for the purposes of this Act are payable out of the moneys appropriated therefor by the Legislature.

(2) In respect of provincial property owned or occupied by a Idem Crown agency, the moneys required for the purposes of this Act are payable out of the funds of the agency. R.S.O. 1960, c. 258, s. 6.

7. The provisions of this Act apply notwithstanding anything Application
of Act in any other general or special Act or any agreement heretofore made. R.S.O. 1960, c. 258, s. 7.

CHAPTER 293

**The Municipal Unconditional
Grants Act****1.** In this Act,

- (a) "Department" means the Department of Municipal Affairs;
- (b) "Minister" means the Minister of Municipal Affairs;
- (c) "municipality" means a metropolitan municipality, regional municipality, city, town, village or township, but does not include a municipality situated within a metropolitan or regional municipality. R.S.O. 1960, c. 259, s. 1; 1968, c. 79, s. 1.

Interpre-
tation

2.—(1) The Department shall, if required for the purposes of this Act, determine in any year the population of each municipality in Ontario.

Population
to be de-
termined by
Department

(2) In determining the population of a municipality, the Department shall take the population of the municipality according to the latest census published by the Dominion Bureau of Statistics and shall adjust that population,

Method
of determi-
nation

- (a) by deducting the total number of persons included in such census who, at the time of the taking of such census, were inmates of institutions, or resided in defence establishments or on Indian reserves, or were transient employees, vacation residents or other temporary residents; and
- (b) by making allowance for any errors in such census that are certified by the Dominion Bureau of Statistics.

(3) Where the population of a municipality that is incorporated after the taking of the latest census published by the Dominion Bureau of Statistics is not shown in such census, its population shall be determined in such manner as the Department considers proper. R.S.O. 1960, c. 259, s. 2.

New muni-
cipalities

3. Whenever the Dominion Bureau of Statistics publishes a new census, the Department shall redetermine the population of each municipality in Ontario in accordance with that census and section 2. R.S.O. 1960, c. 259, s. 3.

New census

Redeter-
mination of
population

4.—(1) Where in the opinion of the Department the population of a municipality as determined under section 2, 3 or 5 has increased by an amount equal to 7 per cent of the population as so determined, the Department shall redetermine the population of the municipality.

Idem

(2) The Department may from time to time thereafter redetermine the population of the municipality whenever in its opinion the population has increased by 7 per cent of the population as last determined.

Idem

(3) Where in the opinion of the Department the population of a municipality as determined under section 2, 3 or 5 has decreased by an amount equal to 7 per cent of the population as so determined by reason of any change in the boundaries of the municipality, the Department shall redetermine the population of the municipality.

Idem

(4) The Department may from time to time thereafter redetermine the population of the municipality whenever in its opinion the population has decreased by 7 per cent of the population as last determined, by reason of any change in the boundaries of the municipality.

Idem

(5) Whenever in the opinion of the Department the population of a municipality has increased so that it will be entitled to an increase in the per capita payment to which it is entitled under section 7, the Department shall redetermine the population of the municipality. R.S.O. 1960, c. 259, s. 4.

Disputes

5. In the event of a dispute between a municipality and the Department as to its population for the purposes of this Act, the council of the municipality may appeal to the Minister who shall thereupon determine or redetermine, as the case may be, the population in accordance with this Act, and the decision of the Minister is final. R.S.O. 1960, c. 259, s. 5.

Effective
date of de-
termination
of population

6. Any determination or redetermination of the population of a municipality in respect of any year under this Act is effective for the grant payable in the following year and thereafter until redetermined in accordance with this Act. R.S.O. 1960, c. 259, s. 6.

Per capita
payments

7. In each year there shall be paid out of the moneys appropriated therefor by the Legislature to each municipality in Ontario a per capita payment or payments in accordance with the population of the municipality as last determined under this Act in the amounts set out in the Schedule to this Act. R.S.O. 1960, c. 259, s. 7.

8.—(1) Where a metropolitan or regional municipality, a city or separated town in a county, a county or a municipality in a territorial district incurs an expenditure,

Grants re
indigent
hospitaliza-
tion

- (a) for premiums payable to the Ontario Hospital Services Commission to insure indigent persons of such municipality; or
- (b) to discharge a liability under sections 22 and 31 of *The Public Hospitals Act* or section 24 of *The Private Hospitals Act*,

R.S.O. 1970,
cc. 378, 361

such municipality shall be eligible in any year to receive an annual grant equal to 80 per cent of such expenditure for the preceding year less 50 per cent of the amount recovered by such municipality under sections 33 and 34 of *The Public Hospitals Act* or section 25 of *The Private Hospitals Act* in such preceding year. 1966, c. 95, s. 1, *part*; 1968, c. 79, s. 3.

(2) A grant under subsection 1 shall be paid out of the moneys appropriated therefor by the Legislature and may be paid in any year following the year in which the expenditure is incurred. 1966, c. 95, s. 1, *part*.

How
grants
payable

9.—(1) The Department may require each municipality to state upon its tax bills in each year, in such manner, form and detail as the Department may require, the amount of the grants payable to it by the Province in that year.

Statement of
provincial
grants on
tax bills

(2) The Department may require any municipality situated within a metropolitan municipality and any local municipality forming part of a county to state on its tax bills in each year, in such manner, form and detail as the Department may require, its share of the grants payable to the metropolitan municipality or county by the Province in that year. R.S.O. 1960, c. 259, s. 9.

Idem

SCHEDULE

(Section 7)

In recognition of the expenditures that local municipalities are required to make to provide municipal services and in recognition of the larger per capita expenditures that municipalities with larger populations are required to make on certain municipal services, the following unconditional per capita grants, to be used to reduce the amount of taxes to be levied on residential and farm assessment:

1. To a metropolitan municipality, regional municipality or city,
 - (a) having a population of 750,000 or more, \$7.00 per capita;
 - (b) having a population of 400,000 or more but less than 750,000, \$6.50 per capita;
 - (c) having a population of 200,000 or more but less than 400,000, \$6.00 per capita;
 - (d) having a population of 75,000 or more but less than 200,000, \$5.75 per capita;
 - (e) having a population of less than 75,000, \$5.50 per capita.
2. To a town or village,
 - (a) having a population of 10,000 or more, \$5.25 per capita;
 - (b) having a population of 7,000 or more but less than 10,000, \$5.00 per capita;
 - (c) having a population of 5,000 or more but less than 7,000, \$4.75 per capita;
 - (d) having a population of 2,000 or more but less than 5,000, \$4.60 per capita;
 - (e) having a population of less than 2,000, \$4.50 per capita.
3. To a township,
 - (a) having a population of 20,000 or more, \$5.25 per capita;
 - (b) having a population of 15,000 or more but less than 20,000, \$5.00 per capita;
 - (c) having a population of 10,000 or more but less than 15,000, \$4.85 per capita;
 - (d) having a population of 5,000 or more but less than 10,000, \$4.75 per capita;
 - (e) having a population of 2,000 or more but less than 5,000, \$4.60 per capita;
 - (f) having a population of less than 2,000, \$4.50 per capita.

The following unconditional per capita grant to represent a share of fines, except those levied under municipal by-laws, to be used to reduce the amount of taxes to be levied on residential and farm assessment:

4. To each municipality,
50 cents per capita.

1968, c. 79, s. 4.

CHAPTER 294

The Municipal Works Assistance Act

1. In this Act,Interpre-
tation

- (a) "Minister" means the Minister of Municipal Affairs;
- (b) "Municipal Development and Loan Board" means the Municipal Development and Loan Board established under the *Municipal Development and Loan Act* (Canada);
- (c) "municipality" means a metropolitan municipality, city, town, village, township, improvement district or county, or an elementary or secondary school board that has authority to raise money by the issue of debentures. 1963, c. 1, s. 1.

1963, c. 13
(Can.)

2. The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, enter into an agreement with the Municipal Development and Loan Board as contemplated in subsection 2 of section 7 of the *Municipal Development and Loan Act* (Canada). 1963, c. 1, s. 2.

Agreement
authorized

3.—(1) The Minister may exercise such powers and responsibilities as are necessary to carry out the terms of the agreement entered into under section 2, and, without limiting the generality of the foregoing, he may, on behalf of the Government of Ontario,

Powers of
Minister

- (a) make all necessary arrangements for the borrowing of moneys from the Municipal Development and Loan Board, in amounts not exceeding in the aggregate the amount fixed by the *Municipal Development and Loan Act* (Canada), for the purpose of making loans to municipalities in accordance with the terms of the agreement;
- (b) make loans to municipalities in respect of municipal projects in accordance with the terms of the agreement and take, hold, pledge or otherwise dispose of debentures, bonds or other securities given by municipalities in respect of such loans; and
- (c) forgive the repayment of a portion of any loan made to a municipality to the same extent as repayment is forgiven to Ontario by the Municipal Development and Loan Board.

Municipal
projects
1963, c. 13
(Can.)

(2) For the purposes of this Act and the *Municipal Development and Loan Act* (Canada), a municipal project includes a capital work of an elementary or secondary school board in respect of which the school board or a metropolitan municipality, city, town, village, township, improvement district or county has authority to raise money by the issue of debentures. 1963, c. 1, s. 3.

Borrowing
powers
R.S.O. 1970,
c. 166

4.—(1) The Lieutenant Governor in Council may borrow or raise by way of loan in the manner provided by *The Financial Administration Act* such sums as he may consider requisite for the purposes of this Act and of the agreement entered into under section 2.

Idem

(2) Bonds, debentures or other securities to be issued by the Lieutenant Governor in Council may be issued and delivered from time to time by the Treasurer of Ontario to the Municipal Development and Loan Board in respect of or in payment for loans made to the Province by the Municipal Development and Loan Board pursuant to the agreement. 1963, c. 1, s. 4.

Moneys
borrowed
in addition
to borrowing
under other
Acts

5. The moneys that may be borrowed or raised by way of loan and the bonds, debentures and other securities that may be issued by the Government of Ontario for the purposes mentioned in this Act are in addition to all sums of money that may be borrowed or raised by way of loan and all bonds, debentures and other securities that may be issued under any other Act. 1963, c. 1, s. 5.

Moneys
required
for Act

6. The moneys required for the purposes of this Act shall be paid out of the Consolidated Revenue Fund. 1964, c. 70, s. 1.

Regulations

7. The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1963, c. 1, s. 6.

CHAPTER 295

**The Municipality of Metropolitan
Toronto Act**

INTERPRETATION

1. In this Act,Interpre-
tation

- (a) “area municipality” means the municipality or corporation of the Borough of East York, the Borough of Etobicoke, the Borough of North York, the Borough of Scarborough, the City of Toronto or the Borough of York;
- (b) “bridge” means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;
- (c) “chairman” means the chairman of the Metropolitan Council;
- (d) “debt” includes obligation for the payment of money;
- (e) “Department” means the Department of Municipal Affairs;
- (f) “highway” and “road” mean a common and public highway, and include a street, bridge, and any other structure incidental thereto;
- (g) “land” includes lands, tenements and hereditaments, and any estate or interest therein, and any right of easement affecting them, and land covered with water, and includes any buildings or improvements on land;
- (h) “local board” means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the Metropolitan Corporation or of an area municipality or of two or more area municipalities or portions thereof;
- (i) “Metropolitan Area” means the area from time to time included within the Borough of East York, the Borough of Etobicoke, the Borough of North York, the Borough of Scarborough, the City of Toronto and the Borough of York;

- (j) "Metropolitan Corporation" means The Municipality of Metropolitan Toronto;
- (k) "Metropolitan Council" means the council of the Metropolitan Corporation;
- (l) "metropolitan road" means a road forming part of the metropolitan road system established under Part VI;
- (m) "Minister" means the Minister of Municipal Affairs;
- (n) "money by-law" means a by-law for contracting a debt or obligation or for borrowing money, other than a by-law passed under section 217;
- (o) "Municipal Board" means the Ontario Municipal Board;
- (p) "roadway" means that part of the highway designed or intended for use by vehicular traffic. R.S.O. 1960, c. 260, s. 1; 1966, c. 96, s. 1.

PART I

INCORPORATION AND COUNCIL

Metropolitan
Corporation
continued

2.—(1) The inhabitants of the Metropolitan Area are hereby continued a body corporate under the name of "The Municipality of Metropolitan Toronto".

Deemed
municipality
under
R.S.O. 1970,
c. 118, 323

(2) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of *The Department of Municipal Affairs Act* and *The Ontario Municipal Board Act*.

Deemed city
under R.S.O.
1970, c. 284

(3) The Metropolitan Corporation shall be deemed to be a city for the purposes of section 394 of *The Municipal Act*. R.S.O. 1960, c. 260, s. 2, *amended*.

Deemed
municipality
under
R.S.O. 1970,
c. 154

(4) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of *The Expropriations Act*. 1968-69, c. 77, s. 1.

Council
to exercise
corporate
powers

3.—(1) The powers of the Metropolitan Corporation shall be exercised by the Metropolitan Council and, except where otherwise provided, the jurisdiction of the Metropolitan Council is confined to the Metropolitan Area.

By-laws

(2) Except where otherwise provided, the powers of the Metropolitan Council shall be exercised by by-law.

Not to be
quashed as
unreasonable

(3) A by-law passed by the Metropolitan Council in the exercise of any of its powers and in good faith shall not be open to question, or be quashed, set aside or declared invalid either wholly or partly, on account of the unreasonableness or supposed

unreasonableness of its provisions or any of them. R.S.O. 1960, c. 260, s. 3.

4.—(1) In every area municipality, meetings of electors for the nomination of candidates for council and for any local board, any members of which are to be elected by ballot by the electors, shall be held in the year 1966 and in every third year thereafter on the second Monday preceding the first Monday in December.

Election of council, etc.

(2) The day for polling shall be the first Monday in December, and the polls shall be open between the hours of 10 o'clock in the morning and 8 o'clock in the evening. 1966, c. 96, s. 2 (1, 2).

Day for polling

(3) The council of every area municipality, before the 1st day of November in the year 1969 and in every third year thereafter, shall pass a by-law naming the place or places and time or times at which the nomination meeting or meetings shall be held. 1966, c. 96, s. 2 (3), *amended*.

Nomination meeting

(4) The members of council and of such local boards shall hold office for a three-year term and until their successors are elected and the new council or board is organized.

Term of office

(5) This section applies to members of the Metropolitan Separate School Board.

Metro-politan Separate School Board

(6) Each area municipality shall be deemed to have passed a by-law providing for a resident voters' list under *The Municipal Franchise Extension Act*, and the assent of the electors as required therein shall be deemed to have been received. 1966, c. 96, s. 2 (4-6).

Extension of franchise under R.S.O. 1970, c. 288

5.—(1) On and after the 1st day of January, 1967, the area municipalities are entitled to the following membership on the Metropolitan Council:

Metro-politan Council membership

the Borough of East York	— 2 members
the Borough of Etobicoke	— 4 members
the Borough of North York	— 6 members
the Borough of Scarborough	— 5 members
the City of Toronto	— 12 members
the Borough of York	— 3 members

(2) In accordance with the membership to which an area municipality is entitled under subsection 1, the Metropolitan Council shall include the mayor of each area municipality and, subject to subsection 3,

Composition

(a) where an area municipality has a board of control,

(i) the controllers, or

(ii) if the number of members, exclusive of the mayor, to which the area municipality is entitled is less than the number of controllers, the controllers to

the number necessary to complete the membership to which the area municipality is entitled who, at the municipal election next preceding the day the new Metropolitan Council is organized in any year, received the greatest number of votes, the next greatest, and so on as the case requires, or

(iii) if the area municipality is entitled to a greater number of members than the mayor and the other members of the board of control, the controllers and such number of aldermen appointed by the council of the area municipality as is necessary to complete the membership to which the area municipality is entitled; or

(b) where the area municipality does not have a board of control, such number of aldermen appointed by the council of the area municipality as is necessary to complete the membership to which the area municipality is entitled.

Where wards
equal to
number of
aldermen
to be
appointed

(3) Where the number of wards in an area municipality is equal to the number of aldermen to be appointed by the council of such area municipality,

(a) the alderman for each ward; or

(b) where there is more than one alderman for each ward, the alderman for each ward who, at the municipal election next preceding the day the new Metropolitan Council is organized in any year, received the greatest number of votes in such ward,

shall be members of the Metropolitan Council in lieu of the aldermen to be appointed.

Acclamation
or equality
of votes

(4) If after any election in an area municipality, by reason of acclamation or an equality of votes, it cannot be determined which controller or controllers or alderman or aldermen is or are entitled to be a member or members of the Metropolitan Council, the matter shall be determined by resolution of the council of the area municipality passed before the organization meeting of the Metropolitan Council.

Election of
chairman

(5) At the first meeting of the Metropolitan Council in each year after an election at which a quorum is present, the Metropolitan Council shall organize as a council and elect as chairman one of the members of the Metropolitan Council, or any other person, to hold office for that year and the two following years and until his successor is elected or appointed in accordance with this section.

Clerk to
preside

(6) The clerk of the Metropolitan Corporation shall preside at each such first meeting or, if there is no clerk, the members present shall select a member to preside, and the person so selected may vote as a member.

(7) If at such first meeting for any reason a chairman is not elected, the clerk or presiding member may adjourn the meeting from time to time and, if a chairman is not elected within one week after such first meeting, the Lieutenant Governor in Council shall appoint the chairman to hold office for that year and the two following years and until his successor is elected or appointed in accordance with this section.

Adjourn-
ment

(8) The Metropolitan Council shall be composed of the chairman and the persons who are members pursuant to this Part. 1966, c. 96, s. 3, *part*.

Composition

6.—(1) The first meeting of the Metropolitan Council in each year after elections have been held in the area municipalities shall be held after the councils of all the area municipalities have held their first meetings in the year but in any event not later than the 15th day of January on such date and at such time and place as may be fixed by by-law of the Metropolitan Council. R.S.O. 1960, c. 260, s. 6 (1); 1962-63, c. 89, s. 1 (1).

First
meeting of
Metropolitan
Council

(2) Notwithstanding anything in any general or special Act, the first meeting of the council of each area municipality in each year after elections have been held in the area municipalities shall be held not later than the 8th day of January. 1962-63, c. 89, s. 1 (2).

First
meeting
of area
councils

(3) A person entitled to be a member of the Metropolitan Council under subsection 2 or 3 of section 5 shall not take his seat until he has filed with the person presiding at the first meeting a certificate under the hand of the clerk of the area municipality for which he was elected and under the seal of the area municipality certifying that he is entitled to be a member under such subsection. R.S.O. 1960, c. 260, s. 6 (3); 1966, c. 96, s. 4 (1), *amended*.

Certificate of
qualification

(4) Where a person elected or appointed as chairman is not one of the persons mentioned in subsection 2 or 3 of section 5, he shall, before taking his seat, take an oath of allegiance in Form 1 and a declaration of qualification in Form 2. R.S.O. 1960, c. 260, s. 6 (4); 1966, c. 96, s. 4 (2).

Oath of
allegiance

(5) No business shall be proceeded with at the first meeting until after the declarations of office in Form 20 of *The Municipal Act* have been made by all members who present themselves for that purpose, and each such declaration shall include a declaration that the member has not by himself or a partner, directly or indirectly, any interest in any contract with or on behalf of the Metropolitan Corporation or any local board thereof. R.S.O. 1960, c. 260, s. 6 (5).

Declaration
of office
R.S.O. 1970,
c. 284

(6) The Metropolitan Council shall be deemed to be organized when the declarations of office have been made by at least eleven members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to

When
Council
deemed
organized

make such declarations. R.S.O. 1960, c. 260, s. 6 (6); 1966, c. 96, s. 4 (3).

Place of
meetings

7. Subject to section 6, all meetings of the Metropolitan Council shall be held at such place within the Metropolitan Area and at such times as the Metropolitan Council from time to time appoints. R.S.O. 1960, c. 260, s. 7.

Quorum,
voting

8.—(1) Eleven members of the Metropolitan Council are necessary to form a quorum, and the concurring votes of a majority of members present are necessary to carry any resolution or other measure.

Votes

(2) Each member of the Metropolitan Council, except the chairman, has one vote only, and the chairman does not have a vote except in the event of an equality of votes. 1966, c. 96, s. 5, *part.*

Term of
office

9. The members of the Metropolitan Council, other than the chairman, hold office while they hold the offices that entitled them to such membership or to appointment to such membership and until their successors take office and a new Metropolitan Council is organized. 1966, c. 96, s. 5, *part.*

Vacancies,
chairman

10.—(1) When a vacancy occurs in the office of a chairman who has been appointed by the Lieutenant Governor in Council, a person shall be appointed by the Lieutenant Governor in Council to hold office as chairman for the remainder of the term of his predecessor.

Idem

(2) When a vacancy occurs in the office of a chairman who has been elected under subsection 5 of section 5, the Metropolitan Council shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect a chairman, who may be one of the members of the Metropolitan Council or any other person, to hold office for the remainder of the term of his predecessor.

Idem

(3) If the Metropolitan Council fails to elect a chairman within twenty days as required by subsection 2, the Lieutenant Governor in Council may appoint a person as chairman to hold office for the remainder of the term of his predecessor.

Other
members

(4) When a vacancy occurs in the office of a member other than the chairman or a member who held office by reason of being a mayor, the council of the area municipality, of which he was a member, shall within fifteen days after the vacancy occurs appoint his successor to hold office for the remainder of the term of his predecessor, provided that, if he held office by reason of being a controller, another controller shall be appointed or, if he held office under subsection 2 of section 5 by reason of being an

alderman, another alderman shall be appointed or, if he held office under subsection 3 of section 5 by reason of being an alderman for a ward, another alderman for such ward shall be appointed.

(5) Where a member of the council of an area municipality becomes chairman, he shall be deemed to have resigned as a member of such council, and his seat on such council thereby becomes vacant. Resignation
of chairman

(6) The seat of a member of the Metropolitan Council becomes vacant if he absents himself continuously from the meetings of the Metropolitan Council during a period of one month without being authorized so to do by a resolution of the Metropolitan Council entered upon its minutes, and the Metropolitan Council shall forthwith declare the seat to be vacant, and, notwithstanding subsection 4, the council of the area municipality of which he is a member may appoint any one of its members as his successor. 1966, c. 96, s. 5, *part*. Vacancy
due to
absence from
meetings

11.—(1) The chairman may be paid for his services as chairman and as a member of any local board of the Metropolitan Corporation or committee of the Metropolitan Council such annual remuneration as the Metropolitan Council may determine. Remunera-
tion of
chairman

(2) The members of the Metropolitan Council, other than the chairman, may be paid such annual or other remuneration as the Metropolitan Council may determine. 1968, c. 80, s. 1. members

12.—(1) There shall be an Executive Committee of the Metropolitan Council composed of, Executive
Committee

(a) the chairman;

(b) the mayor of each area municipality; and

(c) the four alderman members of the executive committee of the City of Toronto,

and the chairman shall be chairman of the Executive Committee and entitled to vote as a member thereof. 1966, c. 96, s. 6, *part*; 1968-69, c. 77, s. 3 (1).

(2) The Executive Committee has all the powers and duties of a board of control under subsections 1 and 2 of section 208 of *The Municipal Act*, and subsections 3 to 16 and 18 and 19 of that section apply *mutatis mutandis*. 1966, c. 96, s. 6, *part*; 1968, c. 80, s. 2 (1). Powers
R.S.O. 1970,
c. 284

(3) Each member of the Executive Committee other than the chairman shall, in addition to his remuneration as a member of the Metropolitan Council, receive such remuneration as may be authorized by the Metropolitan Council. 1968, c. 80, s. 2 (2). Remunera-
tion of
members

Certificate
of qualifica-
tion

(4) An alderman entitled to be a member of the Executive Committee under subsection 1 shall not take his seat on the Executive Committee until he has filed with the person presiding at the first meeting a certificate under the hand of the clerk of the City of Toronto certifying that he is a member of the executive committee of the City of Toronto. 1968-69, c. 77, s. 3 (2).

Committees
of Council

13.—(1) The Metropolitan Council may from time to time establish such standing or other committees, and assign to them such duties, as it considers expedient. R.S.O. 1960, c. 260, s. 13 (1).

Remunera-
tion of
chairmen of
committees

(2) The Metropolitan Council may be by-law provide for paying an annual allowance to each chairman of a standing committee, except where such chairman is the chairman of the Metropolitan Council. R.S.O. 1960, c. 260, s. 13 (2); 1968, c. 80, s. 3.

Procedure
by-laws

14. The Metropolitan Council may pass by-laws for governing the proceedings of the Metropolitan Council and any of its committees, the conduct of its members and the calling of meetings. R.S.O. 1960, c. 260, s. 14.

Who to be
head of
Council

15. The chairman is the head of the Metropolitan Council and the chief executive officer of the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 15.

Acting
chairman

16. When the chairman is absent from the Metropolitan Area or absent through illness, or refuses to act, the Metropolitan Council may by resolution appoint one of its members to act in his place and stead, and such member has and may exercise all the rights, powers and authority of the chairman during such absence or refusal to act. R.S.O. 1960, c. 260, s. 16.

Application
of
R.S.O. 1970,
c. 284

17.—(1) Sections 192, 193, 195, 197, 198, 201, 243, 259, 281 to 286, 349, 350, paragraphs 66 and 67 of section 352 and section 390 of *The Municipal Act* apply *mutatis mutandis* to the Metropolitan Corporation. 1967, c. 58, s. 1; 1970, c. 133, s. 1.

Idem
R.S.O. 1970,
c. 284

(2) Sections 190, 199 and 200 of *The Municipal Act* apply *mutatis mutandis* to the Metropolitan Council and to every local board of the Metropolitan Corporation. 1960-61, c. 61, s. 1 (2); 1961-62, c. 88, s. 4 (2).

Appointment
of clerk, and
his duties

18.—(1) The Metropolitan Council shall appoint a clerk, whose duty it is,

- (a) to record truly in a book, without note or comment, all resolutions, decisions and other proceedings of the Metropolitan Council;

- (b) when a recorded vote is requested by a member, to record the name and vote of every member voting on any matter or question;
- (c) to preserve and file all accounts acted upon by the Metropolitan Council;
- (d) to keep in his office, or in the place appointed for that purpose, the originals of all by-laws and of all minutes of the proceedings of the Metropolitan Council and its committees;
- (e) to perform such other duties as may be assigned to him by the Metropolitan Council.

(2) The Metropolitan Council may appoint a deputy clerk who shall have all the powers and duties of the clerk. Deputy clerk

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties, through illness or otherwise, the Metropolitan Council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk. R.S.O. 1960, c. 260, s. 18. Acting clerk

19.—(1) Any person may, at all reasonable hours, inspect any of the records, books or documents mentioned in section 18 and the minutes and proceedings of any committee of the Metropolitan Council, whether the acts of the committee have been adopted or not, and other documents in the possession or under the control of the clerk, and the clerk shall, within a reasonable time, furnish copies of them, certified under his hand and the seal of the Metropolitan Corporation, to any applicant on payment at the rate of 15 cents for every 100 words or at such lower rate as the Metropolitan Council may fix. Minutes, etc., to be open to inspection and copies to be furnished

(2) A copy of any record, book or document in the possession or under the control of the clerk, purporting to be certified under his hand and the seal of the Metropolitan Corporation, may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. R.S.O. 1960, c. 260, s. 19. Copies certified by clerk to be receivable in evidence

20.—(1) The Metropolitan Council shall appoint a treasurer who shall keep the books, records and accounts of the Metropolitan Corporation and who shall perform such other duties as may be assigned to him by the Metropolitan Council. Treasurer

(2) The Metropolitan Council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer. Deputy treasurer

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties, through illness or otherwise, the Acting treasurer

Metropolitan Council may appoint an acting treasurer *pro tempore* who shall have all the powers and duties of the treasurer. R.S.O. 1960, c. 260, s. 20.

To receive
and take
care of and
disburse
money, etc.

21.—(1) The treasurer shall receive and safely keep all money of the Metropolitan Corporation, and shall pay out the same to such persons and in such manner as the law of Ontario and the by-laws or resolutions of the Metropolitan Council direct, provided that every cheque issued by the treasurer shall be signed by the treasurer and by some other person or persons designated for the purpose by by-law or resolution of the Metropolitan Council, and any such other person before signing a cheque shall satisfy himself that the issue thereof is authorized. R.S.O. 1960, c. 260, s. 21 (1).

Alternative
method of
signing
cheques

(2) Notwithstanding subsection 1, the Metropolitan Council may by by-law designate one or more persons to sign cheques in lieu of the treasurer and may by by-law provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written, stamped, lithographed, or engraved on cheques. 1968-69, c. 77, s. 4.

When
member of
Council may
be paid
for work

(3) Except where otherwise expressly provided by this Act, a member of the Metropolitan Council shall not receive any money from the treasurer for any work or service performed or to be performed.

Treasurer's
liability
limited

(4) The treasurer is not liable for money paid by him in accordance with a by-law or resolution of the Metropolitan Council, unless another disposition of it is expressly provided for by statute.

Bank
accounts

(5) The treasurer shall open an account or accounts in the name of the Metropolitan Corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved of by the Metropolitan Council and shall deposit therein all money received by him on account of the Metropolitan Corporation, and he shall keep the money of the Metropolitan Corporation entirely separate from his own money.

Monthly
statement
of assets

(6) The treasurer shall prepare and submit to the Metropolitan Council, monthly, a statement of the money at the credit of the Metropolitan Corporation.

Notice to
sureties

(7) Where the treasurer is removed from office or absconds, the Metropolitan Council shall forthwith give notice to his sureties. R.S.O. 1960, c. 260, s. 21 (3-7).

Appointment
of auditors

22.—(1) The Metropolitan Council shall by by-law appoint one or more auditors who shall be persons licensed by the Department as municipal auditors and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the Metropolitan Council, and

the auditor or auditors so appointed shall audit the accounts and transactions of the Metropolitan Corporation and of every local board of the Metropolitan Corporation.

(2) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the Metropolitan Corporation and charged back to the local board, and in the event of a dispute as to the amount of the cost the Department may upon application finally determine the amount thereof.

Cost of audit

(3) No person shall be appointed as an auditor of the Metropolitan Corporation who is or during the preceding year was a member of the Metropolitan Council or of the council of an area municipality or of any local board the accounts and transactions of which it would as auditor be his duty to audit, or who has or during the preceding year had any direct or indirect interest in any contract with the Metropolitan Corporation or an area municipality or any such local board, or any employment with any of them other than as an auditor.

Disqualifi-
cation of
persons as
auditors

(4) An auditor shall perform such duties as are prescribed by the Department, and also such duties as may be required by the Metropolitan Council or any local board of the Metropolitan Corporation that do not conflict with the duties prescribed by the Department.

Duties of
auditor

(5) An auditor may administer an oath to any person concerning any account or other matter to be audited.

Auditors
may
administer
oaths

(6) The Metropolitan Council may provide that all accounts shall be audited before payment. R.S.O. 1960, c. 260, s. 22.

Audit of
accounts
before
payment

23.—(1) The Metropolitan Council may pass by-laws for appointing such officers and employees as it may consider necessary for the purposes of the Metropolitan Corporation, or for carrying into effect the provisions of any Act of the Legislature or by-law of the Metropolitan Council, and for fixing their remuneration and prescribing their duties, and the security to be given for the performance of them.

Employees

(2) Except as otherwise provided in this Act, all officers and employees appointed by the Metropolitan Council shall hold office during the pleasure of the Metropolitan Council, and shall, in addition to the duties assigned to them by this Act, perform all other duties required of them by any other Act or by by-law of the Metropolitan Council. R.S.O. 1960, c. 260, s. 23.

Tenure
of office
and duties

24.—(1) Sections 217, 233 and 235, subsections 4 and 5 of section 237, sections 239 and 250 and paragraphs 64, 65 and 66 of section 352 of *The Municipal Act* apply *mutatis mutandis* to the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 24 (1); 1965, c. 81, s. 2.

Application
of R.S.O.
1970, c. 284

Pensions

(2) In addition to its powers in subsection 1, the Metropolitan Council may pass by-laws for providing pensions for employees, or any class thereof, and their wives and children.

Interpre-
tation

(a) In this subsection, "employee" means any salaried officer, clerk, workman, servant or other person in the employ of the Metropolitan Corporation or any local board thereof, or of any area municipality or local board thereof, or of the Toronto and York Roads Commission, and includes any person designated as an employee by the Minister.

Two-thirds
vote
required, and
approval of
Minister

(b) No by-law establishing a pension plan or a by-law amending such a by-law shall be passed by the Metropolitan Council under this subsection except on an affirmative vote of at least two-thirds of the Metropolitan Council present and voting thereon, and no such by-law shall become operative until approved by the Minister.

Agreement
necessary

(c) A local board of the Metropolitan Corporation, an area municipality, a local board of an area municipality or the Toronto and York Roads Commission may enter into an agreement with the Metropolitan Corporation providing that a pension plan established under this subsection shall be applicable to employees or any class thereof of such local board, area municipality or the Toronto and York Roads Commission, and such agreement may provide for the incorporation of the plan of an area municipality, local board or the Toronto and York Roads Commission with the plan established under this subsection and for the transfer of any credits or assets from one plan to the other, but no pension plan established under this subsection applies to an employee of a local board, area municipality or the Toronto and York Roads Commission unless such an agreement has been entered into.

Deductions
from salary,
etc.

(d) Where a pension plan established under this subsection is applicable to an employee of a local board of the Metropolitan Corporation or an employee of an area municipality or a local board thereof or the Toronto and York Roads Commission, the local board, area municipality or the Toronto and York Roads Commission, as the case may be, shall deduct, by instalments from the salary, wages or other remuneration of each employee to whom the by-law is applicable, the amount that such employee is required to pay in accordance with the provisions of the plan and shall pay the amounts deducted to the treasurer of the Metropolitan Corporation.

Employer
contributions

(e) Where a pension plan established under this subsection

is applicable to an employee of a local board of the Metropolitan Corporation or an employee of an area municipality or a local board thereof or the Toronto and York Roads Commission, the local board or area municipality or the Toronto and York Roads Commission shall pay to the treasurer of the Metropolitan Corporation the employer contributions in respect of such employee in accordance with the provisions of the plan. R.S.O. 1960, c. 260, s. 24 (2); 1962-63, c. 89, s. 3.

(3) Where the Metropolitan Corporation or a local board thereof employs a person theretofore employed by an area municipality or a local board thereof, a local board of the Metropolitan Corporation, the County of York or the Toronto and York Roads Commission, the employee shall be deemed to remain an employee of the area municipality or local board or of the County of York or the Toronto and York Roads Commission for the purposes of any pension plan of such area municipality or local board or of the County of York or the Toronto and York Roads Commission, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the area municipality or local board or of the County of York or the Toronto and York Roads Commission, until the Metropolitan Corporation has provided a pension plan for its employees and such employee has elected, in writing, to participate therein or the local board of the Metropolitan Corporation has entered into an agreement under clause *c* of subsection 2. R.S.O. 1960, c. 260, s. 24 (3); 1961-62, c. 88, s. 5 (1). Pensions

(4) Until such election or an agreement has been entered into under clause *c* of subsection 2, the Metropolitan Corporation or local board thereof shall deduct by instalments from the remuneration of the employee the amount that such employee is required to pay in accordance with the provisions of the plan of the area municipality or local board or of the County of York or the Toronto and York Roads Commission and the Metropolitan Corporation or local board thereof shall pay to the area municipality or local board or to the County of York or the Toronto and York Roads Commission in instalments, Idem

- (a) the amounts so deducted;
- (b) the future service contributions payable under the plan by the area municipality or local board or by the County of York or the Toronto and York Roads Commission. R.S.O. 1960, c. 260, s. 24 (4); 1966, c. 96, s. 7 (1).

(5) Where a pension plan of an area municipality or of a local board thereof or of the County of York or of the Toronto and York Roads Commission is amended to improve the pension benefits under the plan, the cost of such improvements in respect of an employee who on the day such pension plan is so amended is contributing under subsection 4 to the pension plan, shall, in Improved pension benefits

respect of the service of the employee while employed by the Metropolitan Corporation or by a local board thereof, be determined by the actuary of the plan that is amended, after taking into consideration any excess of the assets of the pension plan over the actuarial liabilities of the plan immediately prior to the amendment, and the cost, except that portion, if any, that is payable by the employee, shall be payable by the Metropolitan Corporation or by a local board thereof over such period of time, subject to *The Pension Benefits Act*, as may be agreed upon by the municipalities or local boards affected.

R.S.O. 1970,
c. 342

Idem

(6) Where the Metropolitan Corporation or a local board thereof does not accept the amount of the actuarial liability determined as provided for in subsection 5 or the period of time in which the cost mentioned in subsection 5 is payable, the municipalities or local boards affected shall appoint an actuary whose opinion on the matter shall be final and binding and, if such municipalities or local boards cannot agree on the appointment of an actuary, the Department shall appoint an actuary whose opinion on the matter shall be final and binding. 1970, c. 133, s. 2, *part*.

Accrued
benefits
under
former plan

(7) Upon such election or upon such an agreement being entered into and such an employee becoming a member of the pension plan established by the Metropolitan Corporation, he or his beneficiaries are entitled on termination of his services with the Metropolitan Corporation or a local board thereof to all benefits under the pension plan of the area municipality, or of a local board, or of the County of York or of the Toronto and York Roads Commission accrued up to the date of his becoming a member of the Metropolitan Corporation pension plan, and his employment by and service with the Metropolitan Corporation or a local board thereof shall be deemed to be employment by and service with the respective area municipality, or local board, or the County of York or the Toronto and York Roads Commission for the purpose of determining eligibility for any such accrued benefits. R.S.O. 1960, c. 260, s. 24 (5); 1961-62, c. 88, s. 5 (2).

Transfer of
funds to
Metropolitan
Toronto
plan

R.S.O. 1970,
c. 284

(8) An employee who has become a member of the pension plan of the Metropolitan Corporation or of a local board thereof in accordance with subsection 3 is entitled to elect a transfer of a sum of money to such pension plan from the pension plan of an area municipality or of a local board thereof or of the County of York or of the Toronto and York Roads Commission, in accordance with the provisions of subsection 5 of section 250 of *The Municipal Act*, whether or not such an employee is entitled to a refund from the pension plan of his contributions plus any interest thereon and, on the transfer of such a sum of money, the employee and his beneficiaries shall cease to have any rights under the pension plan of the area municipality or the local board thereof or

of the County of York or of the Toronto and York Roads Commission.

(9) Where an employee elects a transfer of a sum of money under subsection 8, the sum of money shall be transferred on the termination of the service of the employee with the Metropolitan Corporation or a local board thereof or, at the option of the area municipality or of a local board thereof or of the County of York or of the Toronto and York Roads Commission, at an earlier date. 1970, c. 133, s. 2, *part.* Idem

(10) Where the Metropolitan Corporation or local board thereof employs a person theretofore employed by an area municipality or local board thereof or a local board of the Metropolitan Corporation or by the County of York or the Toronto and York Roads Commission, the employee shall be deemed to remain an employee of the area municipality or local board or of the County of York or the Toronto and York Roads Commission for the purposes of any sick leave credit plan of the area municipality, local board, the County of York or the Toronto and York Roads Commission until the Metropolitan Corporation or local board thereof has established a sick leave credit plan for its employees, whereupon the Metropolitan Corporation or local board thereof shall place to the credit of the employee the sick leave credits standing to his credit in the plan of the area municipality or local board or of the County of York or the Toronto and York Roads Commission. R.S.O. 1960, c. 260, s. 24 (6); 1961-62, c. 88, s. 5 (3); 1966, c. 96, s. 7 (2). Sick leave credits

(11) Where the Metropolitan Corporation or local board thereof employs a person theretofore employed by an area municipality or local board thereof or a local board of the Metropolitan Corporation or by the County of York or the Toronto and York Roads Commission, the Metropolitan Corporation or local board thereof shall, during the first year of his employment by the Metropolitan Corporation or local board thereof, provide for such employee's holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the area municipality or local board or of the County of York or the Toronto and York Roads Commission. R.S.O. 1960, c. 260, s. 24 (7); 1961-62, c. 88, s. 5 (4); 1966, c. 96, s. 7 (3). Holidays

(12) A person who was employed by an area municipality or a local board thereof before the 1st day of January, 1967, and who is employed by the Metropolitan Corporation or a local board thereof or by an area municipality or a local board thereof, without intervening employment, shall not be deemed to be a person who enters the employ of an employer within the meaning of clause *a* of subsection 1 of section 8 of *The Ontario Municipal Employees Retirement System Act*. 1966, c. 96, s. 7 (4). Application of OMERS to transfer of employment to Metropolitan Corporation or area municipality
R.S.O. 1970, c. 324

PART II

ASSESSMENT

Distribution
of moneys
paid on
termination
of fixed
assessment
agreement
R.S.O. 1970,
c. 32

25. Where the owner of a golf course makes a payment to an area municipality pursuant to subsection 4 or 5 of section 31 of *The Assessment Act*, the amount paid shall be distributed among the bodies for which the area municipality is required to levy in the proportion that the sum of the levies for each body during the currency of the agreement bears to the sum of the total levies during such period. 1968-69, c. 77, s. 5.

Assessment
appeals by
Metro-
politan
Toronto
School
Board

26. For the purposes of section 19, 52, 55 and 63 of *The Assessment Act*, "school board" includes The Metropolitan Toronto School Board and an agent thereof. 1961-62, c. 88, s. 7; 1966, c. 96, s. 8.

Repeal
of partial
exemption
of dwellings

27.—(1) The council of the City of Toronto and the council of the Borough of Etobicoke may, without the assent of the electors, repeal any by-law in force in the City or Borough providing for the partial exemption of dwellings from taxation or provide for the abolition of such exemption over a period of five years in such manner as the council may determine.

Toronto
by-law

(2) Any such by-law in force in the City of Toronto immediately before the 1st day of January, 1967, shall be deemed to be in force in the whole of the City of Toronto until repealed. 1966, c. 96, s. 9, *amended*.

PART III

METROPOLITAN WATERWORKS SYSTEM

Establish-
ment of
waterworks

28. For the purpose of supplying to the area municipalities water for the use of the area municipalities and their inhabitants, the Metropolitan Corporation has all the powers conferred by any general Act upon a municipal corporation and by any special Act upon an area municipality or local board thereof, respecting the establishment, construction, maintenance, operation, improvement and extension of a waterworks system. R.S.O. 1960, c. 260, s. 38.

Assumption
of works
and main

29.—(1) The Metropolitan Council shall before the 1st day of December, 1953, pass by-laws which shall be effective on the 1st day of January, 1954, assuming as part of the metropolitan waterworks system all works for the production, treatment and storage of water vested in each area municipality or any local board thereof and all trunk distribution mains connected therewith, and on the day any such by-law becomes effective the works and mains designated therein vest in the Metropolitan Corporation.

(2) A by-law under subsection 1 shall designate and describe the works and trunk distribution mains assumed. Idem

(3) For the purpose of subsection 1, a distribution main shall be deemed to be a trunk distribution main if so declared in the by-law assuming it. Interpretation

(4) Notwithstanding subsection 1, a by-law for assuming any specific work or trunk distribution main may, with the approval of the Municipal Board, be passed after the 1st day of December, 1953, and in that case the by-law becomes effective on the date provided therein. Extension of time

(5) Where the Metropolitan Corporation assumes a work or trunk distribution main vested in an area municipality or local board, Metropolitan liability

(a) no compensation or damages shall be payable to the area municipality or local board;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of such work or main, but nothing in this clause requires the Metropolitan Corporation to pay that portion of the amounts of principal and interest that under *The Local Improvement Act* is payable as the owners' share of a local improvement work. R.S.O. 1970, c. 255

(6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. Default

(7) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the work or trunk distribution main assumed, the Municipal Board, upon application, may determine the matter and its decision is final. Settling of doubts

(8) In this section, "works" means buildings, structures, plant, machinery, equipment and appurtenances, devices, conduits, intakes and outlets and underground construction and installations and other works designed for the production, treatment and storage of water and includes lands appropriated for such purposes and uses. Interpretation R.S.O. 1960, c. 260, s. 39.

30.—(1) Where an area municipality or a local board thereof has agreed with any other municipality to supply water to that other municipality, and the works and trunk distribution mains used or required in carrying out such agreement are assumed by Existing agreements

the Metropolitan Corporation, the Metropolitan Corporation becomes liable for the supply of water in accordance with the agreement and is bound by all the terms thereof and the area municipality or local board is relieved of all liability thereunder.

Rates

(2) Notwithstanding subsection 1 and notwithstanding anything in the agreement, the Municipal Board, upon the application of the Metropolitan Council or the council of the municipality to which the water is supplied, has jurisdiction and power from time to time to confirm, vary or fix the rates charged or to be charged in connection with water supplied under the agreement. R.S.O. 1960, c. 260, s. 40.

Powers of
area municipi-
alities
restricted

31.—(1) Where all the works of an area municipality or any local board thereof for the production, treatment and storage of water are assumed by the Metropolitan Corporation, the area municipality or local board shall not thereafter establish, maintain or operate any such works.

Idem

(2) An area municipality that did not operate any such works on the 31st day of December, 1953, shall not, after that date, establish, maintain or operate any such works.

Proviso

(3) Nothing in this section limits the powers of an area municipality or local board thereof respecting the use and distribution of water supplied to such area municipality by the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 41.

Supply
beyond
limits of
local municipi-
pality

32.—(1) No municipality or local board that is supplied with water by the Metropolitan Corporation shall supply or agree to supply any of such water beyond the limits of the municipality without the approval of the Metropolitan Council.

Proviso

(2) Nothing in subsection 1 prohibits an area municipality or local board from supplying water to another municipality where the area municipality or local board has agreed to supply such water before the 1st day of April, 1953, and the works and trunk distribution mains used or required in carrying out such agreement have not been assumed by the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 42.

Regulation
of supply,
etc.

33. The Metropolitan Council may pass by-laws for regulating the time, manner, extent and nature of the supply of water from its waterworks system, and every other matter or thing related to or connected therewith that it may be necessary and proper to regulate in order to secure to the inhabitants of the Metropolitan Area a continued and abundant supply of pure and wholesome water, and to prevent the practicing of frauds on the Metropolitan Corporation with regard to the water so supplied. R.S.O. 1960, c. 260, s. 43.

34. The Metropolitan Council may pass by-laws for the maintenance and management of its waterworks system and may also by by-law or resolution fix the charges to meet the cost of any work or service done or furnished for the purposes of the supply of water and the rent of or charges for fittings, apparatus, meters or other things leased or furnished to any municipality or local board. R.S.O. 1960, c. 260, s. 44.

Maintenance,
management, etc.

35.—(1) The Metropolitan Council may pass by-laws fixing the rates at which water will be supplied to the area municipalities, and the times and places when and where the rates shall be payable.

Rates

(2) In fixing the rates, the Metropolitan Council may use its discretion as to the rate or rates to be charged to any area municipality, and may charge different rates to the various area municipalities.

Idem

(3) The Metropolitan Council shall so fix the rates at which water is supplied to the area municipalities that the revenues of the waterworks system will be sufficient to make the system self-sustaining after providing for such maintenance, renewals, depreciation, debt charges and reserves as the Metropolitan Council may think proper.

Self-sustaining

(4) Clause *k* of subsection 1 of section 53 of *The Ontario Municipal Board Act* does not apply with respect to water supplied by the Metropolitan Corporation to an area municipality. R.S.O. 1960, c. 260, s. 45.

R.S.O. 1970,
c. 323, s. 53,
subs. 1, cl. *k*,
not applicable

36.—(1) The Metropolitan Corporation has power to and shall supply water to the area municipalities, but, subject to subsection 2, shall not supply water to any other person.

Retail sale
prohibited

(2) The Metropolitan Corporation may enter into a contract for the supply of water to any local municipality outside the Metropolitan Area for its use or for resale to the inhabitants thereof for any period not exceeding twenty years, and may renew such contract from time to time for further periods not exceeding twenty years at any one time. R.S.O. 1960, c. 260, s. 46.

Sale to
other municipalities

37. The Metropolitan Council shall keep separate books and accounts of the revenues, expenditures, assets and liabilities of its waterworks system in such manner as may be prescribed by the Department. R.S.O. 1960, c. 260, s. 47.

Books and
accounts

38.—(1) Notwithstanding anything in *The Public Utilities Act* or any other general or special Act, the revenues of the waterworks system shall be applied only for,

Application
of revenues
R.S.O. 1970,
c. 390

(a) the reduction of any indebtedness assumed or incurred with respect to the system;

- (b) the operation, maintenance, renewal, improvement or extension of the system;
- (c) the establishment of such reserve funds as the Metropolitan Council considers proper, to be used at any future time for any purpose mentioned in clause *a* or *b* or for the stabilization of rates,

and any surplus revenues not required for such purposes shall remain credited to the waterworks system accounts and shall not form part of the general funds of the Metropolitan Corporation.

Where levy unnecessary

(2) It is not necessary to levy any rate to provide for principal, interest or other payments on account of any debentures issued or assumed by the Metropolitan Corporation for the purposes of the waterworks system except to the extent that the revenues of the system are insufficient to meet the annual payment falling due on account of principal and interest on the debentures.

Reserve fund

R.S.O. 1970,
c. 470

(3) The moneys forming part of a reserve fund established under subsection 1 shall be paid into a special account and may be invested in such securities as a trustee may invest in under *The Trustee Act* and the earnings derived from the investment of such moneys shall form part of the reserve fund.

Application of reserve fund

(4) The moneys forming part of a reserve fund established under subsection 1 shall be applied or expended only for the purposes of the waterworks system. R.S.O. 1960, c. 260, s. 48.

Disposal of property

39.—(1) Subject to section 46, the Metropolitan Corporation may sell, lease or otherwise dispose of any real or personal property acquired, held or used for or in connection with the waterworks system that, in the opinion of the Metropolitan Council, is no longer required for the purposes of the waterworks system, but where the property is actually used for the purposes of the waterworks system no such sale, lease or other disposition shall be made without the approval of the Municipal Board.

Proceeds

(2) The proceeds of any such sale, lease or other disposition shall be applied first in redemption and payment of any indebtedness assumed or incurred in respect of the property disposed of, and the balance shall form part of the revenues of the waterworks system. R.S.O. 1960, c. 260, s. 49.

Temporary shut-offs

40.—(1) The Metropolitan Corporation is not liable for damages caused by the shut-off or reduction of the amount of water supplied to an area municipality in cases of emergency or breakdown or when it is necessary in maintaining or extending the system, but the Metropolitan Council shall wherever possible give to any area municipality reasonable notice of intention to shut off or reduce the supply of water.

(2) Where the supply of water by the Metropolitan Corporation to an area municipality is interrupted or reduced, the area municipality or its local board may, notwithstanding anything in any contract, allocate and distribute its available water among its customers and may interrupt or decrease the delivery of water under any contract, and nothing done under this subsection shall be deemed to be a breach of contract, or entitle any person to rescind any contract or release any guarantor from the performance of his obligation. R.S.O. 1960, c. 260, s. 50.

No breach
of contract

41.—(1) The Metropolitan Council may pass by-laws establishing standards for and regulating and governing the design, construction and maintenance of local water distribution works by the area municipalities and may provide in any such by-law for the inspection of such local works, and every area municipality and local board shall conform to such by-laws.

Standards
for local
systems

(2) No area municipality or local board thereof shall construct or extend any local water distribution works or connect or continue the connection of the same or any part thereof to any work or main of the Metropolitan Corporation without the approval of the Metropolitan Council. R.S.O. 1960, c. 260, s. 51.

Approval of
local exten-
sions and
connections

42. If the council of an area municipality considers itself aggrieved by the refusal of the Metropolitan Corporation or the Metropolitan Council,

Appeal

- (a) to assume as a metropolitan work any local work;
- (b) to construct any extension of the metropolitan distribution system;
- (c) to maintain or increase the supply of water to the area municipality;
- (d) to approve the construction or extension of any local water distribution works by the area municipality; or
- (e) to permit the connection or the continuance of a connection to the metropolitan system,

the council may appeal to the Municipal Board which may make such order as it considers advisable in the matter, and the decision of the Municipal Board is final. R.S.O. 1960, c. 260, s. 52.

43.—(1) All rates and charges against an area municipality or local board thereof imposed under the authority of this Part are a debt of the area municipality to the Metropolitan Corporation, and the treasurer of every area municipality shall pay the same to the treasurer of the Metropolitan Corporation at the times and in the amounts specified by by-law of the Metropolitan Council.

Payment
of charges

(2) The Metropolitan Council may by by-law provide for uniform rates of discount for prompt payment of charges for water supplied to the area municipalities and may by by-law

Discounts
and penalties

provide for the payment of interest in the event of default at a rate not exceeding one-half of 1 per cent for each month or fraction thereof while such default continues. R.S.O. 1960, c. 260, s. 53.

Transfer
of rights
over works
assumed

44. The Metropolitan Corporation has, in respect of all works and trunk distribution mains assumed as part of the metropolitan waterworks systems, all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise upon the area municipality or area municipalities or their local boards with respect to such works or mains before they were assumed by the Metropolitan Corporation and the Metropolitan Corporation may sue upon such rights or under such by-laws or agreements in the same manner and to the same extent as the area municipality or municipalities or local board or boards might have done if such works or mains had not been assumed. R.S.O. 1960, c. 260, s. 54.

Inspection
of local
works

45. Any person authorized by the Metropolitan Council has free access from time to time, upon reasonable notice given and request made, to all works for the production and distribution of water within an area municipality and to all lands, buildings and premises used in connection therewith and the right upon the like notice and request to inspect and copy all plans, records and specifications and other information relating to the construction, extension or maintenance of such local works. R.S.O. 1960, c. 260, s. 55.

Reversion
where mains
no longer
required

46. Where a distribution main has been assumed by the Metropolitan Corporation under section 29 and, in the opinion of the Metropolitan Council, is no longer required for the purposes of the metropolitan waterworks system but is, in the opinion of the council of the area municipality in which it is situate, required as a local distribution main by the area municipality, the Metropolitan Council shall by by-law remove the main from the metropolitan waterworks system and transfer it to the area municipality. R.S.O. 1960, c. 260, s. 56.

Use of
metropolitan
works

47. The works and mains assumed by the Metropolitan Corporation under section 29, together with any extensions or additions thereto constructed by the Metropolitan Corporation, may be used by the Metropolitan Corporation for the purpose of supplying and distributing water to any or all of the area municipalities and, subject to subsection 2 of section 36, to any local municipality outside the Metropolitan Area. R.S.O. 1960, c. 260, s. 57.

Application
of R.S.O.
1970, c. 390

48. Sections 2, 3, 4, 5, 13, 28, 31, 32, 33, 52, 53, 54 and 56 of *The Public Utilities Act* apply *mutatis mutandis* to the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 58.

PART IV

METROPOLITAN SEWAGE WORKS

49.—(1) In this Part,Inter-
pretation

- (a) “capital improvement” means an addition to or an extension, enlargement, alteration, replacement or other improvement of a work of such nature or character that it is usually and properly accounted for as a capital asset;
- (b) “land drainage” means storm, surface, overflow, sub-surface or seepage waters or other drainage from land, but does not include sewage;
- (c) “sewage” means domestic sewage or industrial wastes, or both;
- (d) “sewage works” means an integral system consisting of a sewer or sewer system and treatment works;
- (e) “sewer” means a public sewer for common usage for the purpose of carrying away sewage or land drainage, or both;
- (f) “sewer system” means a system of two or more interconnected sewers having one or more common discharge outlets and includes pumping plant, force mains, siphons and other like works;
- (g) “treatment works” means buildings, structures, plant, machinery, equipment, devices, intakes and outfalls or outlets and other works designed for the interception, collection, settling, treating, dispersing, disposing or discharging of sewage or land drainage, or both, and includes land appropriated for such purposes and uses;
- (h) “work” means a sewer, sewer system, sewage works or treatment works, or a capital improvement of any of them.

(2) For the purpose of this Part, a sewer, sewer system or sewage works, whether existing or proposed, shall be deemed to be a trunk sewer, trunk sewer system or trunk sewage works, if so declared by by-law of the Metropolitan Council. R.S.O. 1960, c. 260, s. 59.

50. For the purpose of collecting or receiving from the area municipalities, or any of them, sewage and land drainage and the treatment or disposal thereof, the Metropolitan Corporation has all the powers conferred by any general Act upon a municipal corporation and by any special Act upon an area municipality or local board thereof. R.S.O. 1960, c. 260, s. 60.

General
powers

Construc-
tion, etc.,
of trunk
sewage
works

51. The Metropolitan Council may pass by-laws for constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up trunk sewers, trunk sewer systems, trunk sewage works, treatment works and watercourses. R.S.O. 1960, c. 260, s. 61.

Assumption
of treatment
works

52.—(1) The Metropolitan Council shall, before the 1st day of December, 1953, pass by-laws which shall be effective on the 1st day of January, 1954, assuming as metropolitan sewage works all treatment works vested in each area municipality or any local board thereof, and on the day any such by-law becomes effective the works designated therein vest in the Metropolitan Corporation.

Other works

(2) The Metropolitan Council may at any time pass by-laws for assuming any trunk sewer, trunk sewer system, or watercourse vested in any area municipality or local board thereof, but no such by-law becomes effective before the 1st day of January, 1954.

Idem

(3) A by-law under subsection 1 or 2 shall designate and describe the works assumed.

Extension
of time

(4) Notwithstanding subsection 1, a by-law for assuming any specific treatment works may, with the approval of the Municipal Board, be passed after the 1st day of December, 1953, and in that case the by-law becomes effective on the date provided therein.

Metropolitan
liability

(5) Where the Metropolitan Corporation assumes a work or watercourse vested in an area municipality or local board,

(a) no compensation or damages shall be payable to the area municipality or local board;

(b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of such work or watercourse, but nothing in this clause requires the Metropolitan Corporation to pay that portion of the amounts of principal and interest that under *The Local Improvement Act* is payable as the owners' share of a local improvement work.

R.S.O. 1970,
c. 255

Default

(6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Settling of
doubts

(7) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the work or watercourse assumed, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1960, c. 260, s. 62.

53.—(1) Where an area municipality or a local board thereof has agreed with any other municipality to receive sewage or land drainage from that other municipality, and the works or watercourses used or required in carrying out such agreement are assumed by the Metropolitan Corporation, the Metropolitan Corporation becomes liable to receive such sewage or land drainage in accordance with the agreement and the receiving municipality or local board is relieved of all liability thereunder.

Existing agreements

(2) Where an area municipality or a local board thereof has agreed with any person other than a municipality to receive sewage or land drainage and the works or watercourses used or required in carrying out such agreement are assumed by the Metropolitan Corporation, the Metropolitan Corporation becomes liable to receive such sewage or land drainage in accordance with the agreement and the area municipality or local board is relieved of all liability thereunder.

Idem

(3) Notwithstanding subsections 1 and 2 and notwithstanding anything in any such agreement, the Municipal Board, upon the application of the Metropolitan Council or of the council of any area municipality or of any person concerned, may by order terminate any such agreement and adjust all rights and liabilities thereunder. R.S.O. 1960, c. 260, s. 63.

Termination

54.—(1) Where all the treatment works of an area municipality or any local board thereof are assumed by the Metropolitan Corporation, the area municipality shall not thereafter establish, maintain or operate treatment works without the approval of the Metropolitan Council.

Powers of area municipalities restricted

(2) No area municipality shall establish or enlarge any treatment works after the 1st day of December, 1953, without the approval of the Metropolitan Council. R.S.O. 1960, c. 260, s. 64.

Idem

55. The Metropolitan Council may pass by-laws for the maintenance and management of its sewers, sewer system, sewage works, treatment works and watercourses and regulating the manner, extent and nature of the reception and disposal of sewage and land drainage from the area municipalities and every other matter or thing related to or connected therewith that it may be necessary and proper to regulate in order to secure to the inhabitants of the Metropolitan Area an adequate system of sewage and land drainage disposal. R.S.O. 1960, c. 260, s. 65.

Regulation of system, etc.

56.—(1) Where in the opinion of the Metropolitan Council an area municipality or a portion thereof will or may derive a special benefit from the construction and operation of a work or watercourse, the Metropolitan Council may, with the approval of the Municipal Board, in authorizing the construction, extension or improvement of the work, by by-law provide that the area

Special benefit

municipality shall be chargeable with and shall pay to the Metropolitan Corporation such portion of the capital cost thereof as the by-law specifies, and such by-law is binding on the area municipality.

Debenture
payments

(2) Where debentures are issued for the cost of the work, the area municipality chargeable under the by-law shall make payments to the Metropolitan Corporation with respect to such debentures proportionate to its share of the capital cost as set out in the by-law in the same manner as if debentures for such share had been issued by the Metropolitan Corporation for the purposes of the area municipality.

Raising of
money
by area
municipality
R.S.O. 1970,
c. 284

(3) The area municipality may pay the amounts chargeable to it under this section out of its general funds or, subject to the approval of the Municipal Board, may pass by-laws under section 362 of *The Municipal Act* for imposing sewer rates to recover the whole or part of the amount chargeable to the area municipality in the same manner as if the work were being or had been constructed, extended or improved by the area municipality. R.S.O. 1960, c. 260, s. 66.

Connecting
to metro-
politan
works or
watercourses

57.—(1) No municipality or person shall connect any local work, local watercourse, private drain or private sewer to a metropolitan work or watercourse without the approval of the Metropolitan Council.

Agreements
with other
municipalities

(2) The Metropolitan Corporation may enter into a contract with any local municipality outside the Metropolitan Area to receive and dispose of sewage and land drainage from the local municipality on such terms and conditions as may be agreed upon for any period not exceeding twenty years, and may renew such contract from time to time for further periods not exceeding twenty years at any one time.

Inspection

(3) Any engineer or other officer of the Metropolitan Corporation has power to inspect the plans and specifications of any work referred to in subsection 1 and to inspect the work during its construction and before it is connected with the metropolitan work or watercourse. R.S.O. 1960, c. 260, s. 67.

Standards
for local
systems

58.—(1) The Metropolitan Council may pass by-laws establishing standards for and regulating and governing the design, construction and maintenance of local works connected or to be connected to a metropolitan work or watercourse, and every area municipality and local board shall conform to such by-laws.

Approval
of local
extensions,
etc.

(2) No area municipality or local board thereof shall enlarge, extend or alter any local work or watercourse that discharges into a metropolitan work or watercourse without the approval of the Metropolitan Council. R.S.O. 1960, c. 260, s. 68.

59. If the council of an area municipality considers itself Appeal aggrieved by the refusal of the Metropolitan Corporation or the Metropolitan Council,

- (a) to assume as a metropolitan work any local work;
- (b) to construct, extend or improve any metropolitan work;
- (c) to receive any required volume of sewage or land drainage from the area municipality;
- (d) to approve the construction, alteration, improvement or extension of a local work;
- (e) to permit a connection or the continuance of a connection to any metropolitan work,

the council may appeal to the Municipal Board which may make such order as it considers advisable in the matter, and the decision of the Municipal Board is final. R.S.O. 1960, c. 260, s. 69.

60.—(1) The Metropolitan Council may pass by-laws, subject to the approval of the Municipal Board, providing for imposing on and collecting from any area municipality, in respect of the whole or any designated part or parts thereof from which sewage and land drainage is received, a sewage service rate or rates sufficient to pay such portion as the by-law may specify of the annual cost of maintenance and operation of any metropolitan work or works.

Special
sewage
service rates

(2) All such charges constitute a debt of the area municipality to the Metropolitan Corporation and shall be payable at such times and in such amounts as may be specified by by-law of the Metropolitan Council.

Idem

(3) The area municipality may pay the amounts chargeable to it under any such by-law out of its general funds or, subject to the approval of the Municipal Board, may pass by-laws under section 362 of *The Municipal Act* for imposing sewage service rates to recover the whole or part of the amount chargeable to the area municipality. R.S.O. 1960, c. 260, s. 70.

Raising of
money by
area municipality
R.S.O. 1970,
c. 284

61. The Metropolitan Council may contribute toward the cost to any area municipality of the separation of sanitary and storm sewers now in existence in the area municipality such amount as it considers proper not exceeding 25 per cent of the total cost thereof to the area municipality. 1967, c. 58, s. 2.

Contribution
towards cost
of separation
of combined
sewers

62. The Metropolitan Corporation has, in respect of all works assumed, all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise upon the area municipality or area municipalities or their local boards with respect to such works before they were assumed by the Metropolitan Corporation and the Metropolitan Corporation may sue upon

Transfer of
rights over
works
assumed

such rights or under such by-laws or agreements in the same manner and to the same extent as the area municipality or municipalities or local board or boards might have done if such works had not been assumed. R.S.O. 1960, c. 260, s. 71.

Inspection
of local
works

63. Any person authorized by the Metropolitan Council has free access from time to time, upon reasonable notice given and request made, to all works within an area municipality and to all lands, buildings and premises used in connection therewith and the right, upon the like notice and request, to inspect and copy all plans, records and specifications and other information relating to the construction, extension or maintenance of such local works. R.S.O. 1960, c. 260, s. 72.

Use of
metropolitan
works

64. Any works assumed by the Metropolitan Corporation under the authority of section 52, together with any extensions or additions thereto constructed by the Metropolitan Corporation, may be used by the Metropolitan Corporation for the purpose of receiving and disposing of sewage and land drainage from any or all of the area municipalities and, subject to subsection 2 of section 57, from any local municipality outside the Metropolitan Area. R.S.O. 1960, c. 260, s. 73.

PART V

WASTE DISPOSAL

Interpre-
tation

65.—(1) In this Part,

- (a) “area municipality” includes a local board;
- (b) “waste” includes ashes, garbage, refuse and domestic or industrial waste of any kind.

Waste
disposal

(2) The Metropolitan Corporation may acquire and use land within the Metropolitan Toronto Planning Area and may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of receiving, dumping and disposing of waste, and may contract with any person for such purposes, and may prohibit or regulate the dumping and disposing of waste or any class or classes thereof upon any such land, and may charge fees for the use of such property, which fees may vary in respect of different classes of waste, but no such fees shall be charged to any area municipality or its agent. 1966, c. 96, s. 10, *part*.

Approval re
acquisition
of land

(3) The power to acquire land under subsection 2 shall not be exercised without,

- (a) the approval of the local municipality in which the land is situate, which approval may be granted upon such terms and conditions as may be agreed upon; or

- (b) failing such approval or agreement, the approval of the Municipal Board. 1966, c. 96, s. 10, *part*; 1967, c. 58, s. 3.

(4) The Municipal Board, before giving its approval under clause *b* of subsection 3, shall hold a public hearing and shall give or cause to be given at least ten days notice of the hearing to the clerk of the municipality concerned and to such other persons in such manner as the Municipal Board may direct, and the Municipal Board, as a condition of giving any such approval, may by its order impose such restrictions, limitations and conditions respecting the acquisition or use of such land as to the Municipal Board may appear necessary or expedient.

Approval of
O.M.B.

(5) On and after the 1st day of January, 1967, no area municipality shall exercise any of its powers with respect to the matters provided for in subsection 2 without the consent of the Metropolitan Council.

Powers of
area muni-
cipalities

(6) The Metropolitan Council shall, before the 1st day of January, 1967, pass by-laws, which shall be effective on the 1st day of January, 1967, assuming for the use of the Metropolitan Corporation any land, building, structure, machinery or equipment, including vehicles used primarily for the disposal of waste, that the Metropolitan Corporation may require for the purposes of subsection 2 that is vested on the 31st day of March, 1966, in any area municipality and is used on such date for the purposes set out in subsection 2 or that is acquired by any area municipality after the 31st day of March, 1966, and before the 1st day of January, 1967, for such use, and on the day any such by-law becomes effective the property designated therein vests in the Metropolitan Corporation.

Assumption
of lands
for waste
disposal

(7) No area municipality, after the 31st day of March, 1966, and before the 1st day of January, 1967, shall without the consent of the Metropolitan Council sell, lease or otherwise dispose of or encumber any property mentioned in subsection 6.

Sale by
area muni-
cipalities
limited

(8) Notwithstanding subsection 6, a by-law for assuming any property mentioned in subsection 6, with the approval of the Municipal Board, may be passed after the 1st day of January, 1967, and in that case the by-law shall become effective on the date provided therein.

Extension
of time

(9) Where the Metropolitan Corporation assumes any property under subsection 6 or 8,

Liability of
Metro-
politan
Corporation

- (a) no compensation or damage shall be payable to the area municipality except as provided in this subsection;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstand-

ing debentures issued by the area municipality in respect of any property vested in the Metropolitan Corporation under subsection 6 or 8; and

- (c) notwithstanding any order of the Municipal Board or any debenture by-law passed pursuant thereto, all amounts of principal and interest becoming due thereafter with respect to any debentures theretofore issued by the Metropolitan Corporation in respect of any property vested in the Metropolitan Corporation under subsection 6 or 8 shall be repaid by levies against all the area municipalities.

Default

(10) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 9, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Settling
of doubts

(11) In the event of any doubt as to whether,

- (a) any outstanding debenture or portion thereof was issued in respect of any property assumed under subsection 6 or 8; or

(b) any vehicle was used primarily for the disposal of waste, the Municipal Board, upon application, may determine the matter, and its decision is final.

Local
by-laws not
applicable
to Metro-
politan
Corporation
operations
R.S.O. 1970,
c. 284

(12) No by-law of any municipality heretofore or hereafter passed pursuant to paragraph 116 of subsection 1 of section 354 of *The Municipal Act* or a predecessor thereof shall apply to the operations of the Metropolitan Corporation pursuant to subsection 2.

Existing
contracts
for disposal
of waste

(13) Nothing in this Part affects any contract for the disposal of waste that is existing on the 18th day of May, 1966 between any person and any area municipality, but the Metropolitan Corporation and any such area municipality may enter into an agreement providing that the Metropolitan Corporation shall assume all or part of the liability created by such contract in respect of the disposal of waste. 1966, c. 96, s. 10, *part, amended*.

PART VI

METROPOLITAN ROAD SYSTEM

Interpre-
tation

66. In this Part,

- (a) "approved" means approved by the Minister or of a type approved by the Minister;
- (b) "Department" means the Department of Highways;
- (c) "Minister" means the Minister of Highways. R.S.O. 1960, c. 260, s. 74.

67. Unless assumed as a metropolitan road by the by-law mentioned in section 68, all roads within the Metropolitan Area or on the boundary between the Metropolitan Area and an adjoining county that, on the 31st day of December, 1953, form part of the county road system of the County of York established under *The Highway Improvement Act* shall, on the 1st day of January, 1954, revert or be transferred to the corporations of the local municipalities in which they are situate. R.S.O. 1960, c. 260, s. 75.

Existing
county roads
in Area

R.S.O. 1970,
c. 201

68.—(1) Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Council shall by by-law establish a metropolitan road system in the Metropolitan Area by assuming roads in any area municipality and may include in the system such boundary line roads or portions thereof between the Metropolitan Area and an adjoining county as may be agreed upon between the Metropolitan Council and the council of such county, and the by-law shall designate the roads to be assumed as metropolitan roads and intended to form the metropolitan road system.

Establish-
ment of
metropolitan
road system

(2) The by-law shall be passed not later than the 31st day of October, 1953, and shall come into force on the 1st day of January, 1954.

Time for
passing:
effective date

(3) The Metropolitan Corporation shall submit the by-law to the Minister for approval by the Lieutenant Governor in Council on or before the 31st day of October, 1953, and upon receipt of the application for such approval the Minister may obtain such report thereon as he considers necessary and may hear the council of any area municipality that may be dissatisfied therewith before presenting the application for consideration to the Lieutenant Governor in Council.

Submission
of by-law
for approval

(4) The Lieutenant Governor in Council may approve the by-law in whole or in part and where the by-law is approved in part only it shall be enforced and take effect so far as approved, but it is not necessary for the Metropolitan Council to pass any further by-law amending the original by-law or repealing any portion thereof which has not been so approved.

Approval or
amendment

(5) Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Council may amend the by-law from time to time by adding roads to or removing roads from the metropolitan road system or in any other manner.

Amendment
of by-law

(6) Where a road or a part thereof is added to the metropolitan road system, the soil and freehold of such road or part is thereupon vested in the Metropolitan Corporation.

Metropolitan
roads
vested in
Metropolitan
Corporation

(7) Where a road or a part thereof is removed from the metropolitan road system, except by reason of it being stopped-up pursuant to section 79, such road or part is thereupon

Roads
removed
from system

transferred to and the soil and freehold thereof is thereupon vested in the corporation of the local municipality in which it is situate.

Consolidating
by-law

(8) Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Corporation may from time to time pass a by-law consolidating its by-law establishing the metropolitan road system and all by-laws amending such by-law. R.S.O. 1960, c. 260, s. 76.

Submission
of by-law
covering
estimated
expenditure

69.—(1) The Metropolitan Corporation shall submit a by-law covering the estimated expenditure on metropolitan roads for the calendar year to the Department for the Minister's approval, not later than the 31st day of March of the year in which the expenditure is to be made. R.S.O. 1960, c. 260, s. 77 (1).

Supplementary
by-law

(2) The Metropolitan Corporation may, at any time within the calendar year in which the expenditure is to be made, submit to the Minister for his approval a by-law covering the estimated expenditure on metropolitan roads supplementing the by-law submitted under subsection 1. 1961-62, c. 89, s. 4.

Subsidy

(3) No subsidy shall be granted by the Department for work undertaken by the Metropolitan Corporation that has not been provided for by a by-law duly approved by the Minister. R.S.O. 1960, c. 260, s. 77 (2).

Annual
statement
to Minister

70.—(1) The Metropolitan Council shall annually and may with the consent of the Minister at any time during the progress of its work in connection with the metropolitan road system submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the engineer or other officer of the Metropolitan Corporation who is charged with the responsibility of directing and supervising the work that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister and with the approval of the proper officer of the Department;
- (c) a declaration of the treasurer of the Metropolitan Corporation that the statement of receipts and expenditures is correct; and
- (d) a petition for the payment of the grant, authorized by resolution of the Metropolitan Council.

Payment to
Corporation

(2) Upon receipt of the statement, declarations and petition and the approval thereof by the proper officer of the Department, the Minister may direct payment to the treasurer of the Metropolitan Corporation out of moneys appropriated therefor by the

Legislature of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement and in all cases of doubt or dispute the decision of the Minister is final. R.S.O. 1960, c. 260, s. 78.

(3) Subject to section 69, the Minister may, in his discretion, direct payment to the Metropolitan Corporation under this section, on or after the 1st day of May in any year, of a sum not exceeding 25 per cent, Advance payments

- (a) of the amount paid by the Minister under this section in respect of the preceding calendar year; or
- (b) of the average annual payments made by the Minister under this section in respect of the five preceding calendar years. 1962-63, c. 89, s. 5.

71. Where a contribution has been made from any source whatsoever towards an expenditure to which section 70 applies, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. 1968, c. 80, s. 4. Certain expenditures not included in statement

72. Expenditures that shall be deemed to be properly chargeable to road improvement include those made for the purpose of, Expenditures eligible for subsidy

- (a) opening a new metropolitan road and acquiring the necessary land therefor;
- (b) clearing a metropolitan road of obstructions;
- (c) widening, altering or diverting a metropolitan road;
- (d) subject to section 3 of *The Public Service Works on Highways Act*, defraying 50 per cent of the cost of labour only in taking up, removing or changing the location of appliances or works placed on or under a metropolitan road by an operating corporation; R.S.O. 1970, c. 388
- (e) constructing and maintaining bridges, culverts or other structures, other than sanitary sewers, incidental to the construction of a metropolitan road;
- (f) grading a metropolitan road;
- (g) constructing and maintaining an approved base for the road surface on a metropolitan road, including the installing and maintaining of approved drainage;
- (h) constructing and maintaining any approved type of road surface on a metropolitan road;
- (i) constructing and maintaining necessary curbs, gutters and catch basins on a metropolitan road;
- (j) clearing snow from and applying chemicals or abrasives to icy surfaces on a metropolitan road;

- (k) establishing and laying out a new road under section 78 and constructing such new road as part of the metropolitan road system before actually assuming it is a metropolitan road by amending the by-law passed under section 68; and
- (l) such other work of road improvement as the Minister may approve. R.S.O. 1960, c. 260, s. 80; 1962-63, c. 89, s. 6.

In accordance with requirements of Minister

73. Every road constructed or repaired as part of the metropolitan road system shall be so constructed and repaired in accordance with the requirements of the Minister. R.S.O. 1960, c. 260, s. 81.

Powers over roads assumed

74. The Metropolitan Corporation has, in respect of the roads or streets included in the metropolitan road system, all the rights, powers, benefits and advantages conferred, and is subject to all liabilities imposed, either by statute, by-law, contract or otherwise upon The Corporation of the County of York or the corporation of the area municipality or the corporations of two or more area municipalities which had jurisdiction over the roads before they were assumed by the Metropolitan Corporation, and the Metropolitan Corporation may sue upon such rights or under such agreements or by-laws in the same manner and to the same extent as the County of York or the area municipality or municipalities, as the case may be, might have done if the roads had not been assumed as metropolitan roads. R.S.O. 1960, c. 260, s. 82.

Sidewalks excepted

75.—(1) The Metropolitan Corporation is not by reason of assuming a road under this Act liable for the building, maintenance or repair of sidewalks on any metropolitan road or portion thereof, but the area municipality in which such sidewalks are located continues to be liable for the maintenance and repair of such sidewalks and is responsible for any injury or damage arising from the construction or presence of the sidewalks on such road or portion thereof to the same extent and subject to the same limitations to which an area municipality is liable under section 427 of *The Municipal Act*, in respect of a sidewalk on a road over which a council has jurisdiction.

R.S.O. 1970, c. 284

Area municipalities may construct sidewalks, etc.

(2) The council of an area municipality may construct or put down a sidewalk or other improvement or service on a metropolitan road but no such work shall be undertaken by a municipal corporation or any individual or company without first obtaining the written consent of the Metropolitan Council expressed by resolution.

How cost provided

(3) The cost of any sidewalk constructed on a metropolitan road may be met out of the general funds of the area municipality or the work may be undertaken as a local improvement under *The Local Improvement Act*.

R.S.O. 1970, c. 255

(4) An area municipality when constructing a sidewalk or other improvements or service on a metropolitan road under this section shall conform to any requirements or conditions imposed by the Metropolitan Council and is responsible for any injury or damage arising from the construction or presence of the sidewalk, improvements or service on the road.

Area municipality to conform to requirements and be responsible for damages

(5) Subsection 4 of section 97 of *The Highway Improvement Act* does not apply to a sidewalk constructed on a metropolitan road by the council of a township. R.S.O. 1960, c. 260, s. 83.

R.S.O. 1970, c. 201, s. 97, subs. 4, not to apply

76. Where a metropolitan road intersects a road that is not a metropolitan road, the continuation of the metropolitan road to its full width across the road intersected, including the bridges and culverts thereon or touching thereon, is a part of the metropolitan road system except in the case of an intersection by a metropolitan road of the King's Highway, and in that case the full width of the intersection shall be deemed to be part of the King's Highway. R.S.O. 1960, c. 260, s. 84.

Intersection of other roads by metropolitan road

77. When land abutting on a metropolitan road is dedicated for highway purposes for, or apparently for, the widening of the metropolitan road, the land so dedicated is part of the metropolitan road and the soil and freehold thereof is vested in the Metropolitan Corporation subject to any rights in the soil reserved by the person who dedicated the land. R.S.O. 1960, c. 260, s. 85.

Dedication of lands abutting metropolitan roads for widening purposes

78. Subject to the approval of the Lieutenant Governor in Council, the Metropolitan Council may pass by-laws for establishing and laying out new roads and for amending the by-law passed under section 68 by assuming such new roads as part of the metropolitan road system and the provisions of *The Municipal Act* with respect to the establishment and laying out of highways by municipalities apply *mutatis mutandis*. R.S.O. 1960, c. 260, s. 86.

New roads

R.S.O. 1970, c. 284

79. With respect to the metropolitan roads, the Metropolitan Corporation has all the powers conferred, and is subject to all the liabilities imposed, upon the council or corporation of a city under *The Municipal Act*, *The Highway Traffic Act* and any other Act with respect to highways. R.S.O. 1960, c. 260, s. 87.

Powers and liabilities of Corporation

R.S.O. 1970, cc. 284, 202

80.—(1) Subject to *The Highway Traffic Act*, the Metropolitan Corporation may,

Signal-light traffic control systems

- (a) install signal-light traffic control systems on any highway in the Metropolitan Area;
- (b) operate all signal-light traffic control systems heretofore or hereafter installed in the Metropolitan Area;

(c) control its signal-light traffic control systems by electronic computers; and

(d) regulate traffic on highways in the Metropolitan Area within 100 feet of any signal-light traffic control system and for such purpose the Metropolitan Corporation is deemed to be a municipality under section 135 of *The Highway Traffic Act*.

R.S.O. 1970,
c. 202

Conflict
with area
by-laws

(2) When a by-law passed under subsection 1 regulating traffic on any part of a highway in the Metropolitan Area is in force, any by-law passed by an area municipality that conflicts therewith has no effect to the extent of such conflict.

Area muni-
cipalities
not to
operate
signal
systems

(3) No area municipality may, after the day this section comes into force, install or operate signal-light traffic control systems in the Metropolitan Area.

Signal-lights
vested in
Metro-
politan
Corporation

(4) All signal-light traffic control systems installed on highways in the Metropolitan Area are vested in the Metropolitan Corporation, and no compensation therefor shall be paid by the Metropolitan Corporation to any area municipality. 1961-62, c. 88, s. 8.

Names of
highways

81.—(1) Where the name of a highway is a duplication or is similar to the name of another highway in the Metropolitan Area, the Metropolitan Council may pass by-laws for changing the name of any such highway, and no area municipality thereafter has power to change the name of such highway.

When by-law
effective

(2) A by-law passed under subsection 1 shall recite the fact of such duplication or similarity, and the change shall take effect when a certified copy of the by-law is registered in the proper registry or land titles office. R.S.O. 1960, c. 260, s. 88.

Speed
limits on
metropolitan
roads

82.—(1) The Metropolitan Council may by by-law prescribe a lower or higher rate of speed for motor vehicles driven upon any metropolitan road or any portion of a metropolitan road than is prescribed in subsection 1 of section 82 of *The Highway Traffic Act*, but such rate of speed shall not be less than 25 miles per hour or more than 60 miles per hour.

Approval
of by-laws

(2) No by-law passed under subsection 1 shall become effective until approved by the Department of Transport and the metropolitan roads or portions thereof affected by the by-law shall be marked to comply with the regulations made under *The Highway Traffic Act*. R.S.O. 1960, c. 260, s. 89.

Speed
limits in
metropolitan
parks

83. The Metropolitan Council may by by-law prescribe the rate of speed for motor vehicles driven on lands vested in the Metropolitan Corporation under Part XVI in accordance with subsection 4 of section 82 of *The Highway Traffic Act*. R.S.O. 1960, c. 260, s. 90.

84. The Metropolitan Council may by by-law empower the council of any area municipality to lease or license the use of untravelled portions of metropolitan roads within the area municipality to the owners or occupants of adjoining property that is lawfully used for commercial or industrial purposes to be used solely for the parking of vehicles. 1968, c. 80, s. 5.

Use of untravelled portions of metropolitan roads for parking

85. The Metropolitan Corporation may by by-law authorize agreements between the Metropolitan Corporation and the owners or lessees of land abutting on a highway for the construction, maintenance and use of walks for pedestrians over, across or under the highway upon such terms and conditions as may be agreed and for contributing to the whole or any part of the cost thereof and for leasing or licensing the use of untravelled portions of such walks and adjoining lands to persons for such considerations and upon such terms and conditions as may be agreed. 1967, c. 58, s. 4.

Agreements for pedestrian walks

86. The Metropolitan Council may plant trees on a metropolitan road and the cost of the work shall be deemed to be part of the cost of repairing and maintaining the road. R.S.O. 1960, c. 260, s. 92.

Planting trees

87.—(1) Sections 436 and 438 of *The Municipal Act* do not apply to a bridge or highway crossing or forming a boundary between the Metropolitan Area and an adjoining county where such bridge or highway is included in the metropolitan road system and in the county road system of the county.

Disputes as to maintenance, etc., of bridges and highways
R.S.O. 1970, c. 284

(2) When there is a difference between the Metropolitan Council and the council of a county in respect of any such bridge or highway as to the corporation upon which the obligation rests for the building, maintaining or keeping in repair of the bridge or highway, or as to the proportions in which the corporations should respectively contribute thereto, or where the Metropolitan Council and the council of the county are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or highway, every such difference shall be determined by the Municipal Board upon an application by the Metropolitan Corporation or the corporation of the county.

Idem

(3) The Municipal Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such bridge or highway, and the Municipal Board may make such order in regard to the same as it considers just and proper, and may by the order fix and determine the amount or proportion which each municipality shall pay or contribute toward the building, maintaining and keeping in repair of such bridge or highway.

Hearing by Municipal Board

Term of
order

(4) An order made by the Municipal Board under this section is binding upon the municipalities for such period as the Municipal Board may determine, and is final and conclusive. R.S.O. 1960, c. 260, s. 94.

Boundary
bridges
R.S.O. 1970,
c. 284

88. Clause *b* of subsection 1 of section 403 of *The Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between area municipalities, and the councils of the area municipalities on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the metropolitan road system. R.S.O. 1960, c. 260, s. 95.

Idem

89. Section 418 of *The Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between the Metropolitan Area and an adjoining county or regional municipality, and the councils of the area municipality and the local municipality in the adjoining county on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the metropolitan road system. R.S.O. 1960, c. 260, s. 96, *amended*.

Restrictions

90.—(1) The Metropolitan Council has, with respect to all land lying within a distance of 150 feet from any limit of a metropolitan road, all the powers conferred on the council of a local municipality by section 35 of *The Planning Act*.

R.S.O. 1970,
c. 349

Conflict with
local by-law

(2) In the event of conflict between a by-law passed under subsection 1 by the Metropolitan Council and a by-law passed under section 35 of *The Planning Act* or a predecessor of such section by the council of the area municipality in which the land is situate, the by-law passed by the Metropolitan Council prevails to the extent of such conflict, but in all other respects the by-law passed by the council of the area municipality remains in full force and effect. R.S.O. 1960, c. 260, s. 97.

Controlled-
access roads

91.—(1) Subject to the approval of the Municipal Board, the Metropolitan Corporation may by by-law designate any metropolitan road, or any portion thereof, as a metropolitan controlled-access road.

Closing
municipal
roads

(2) Subject to the approval of the Municipal Board, the Metropolitan Corporation may by by-law close any municipal road that intersects or runs into a metropolitan controlled-access road.

Notice of
application
for approval
of closing
road

(3) The Municipal Board may direct that notice of any application for approval of the closing of a road under this section shall be given at such times, in such manner and to such persons as the Municipal Board may determine, and may further direct that particulars of claims in respect of land injuriously affected by the

closing of the road shall be filed with the Municipal Board and the Metropolitan Corporation within such time as the Municipal Board shall direct.

(4) No claim by or on behalf of any person who has not filed the particulars of claim within the time directed by the Municipal Board shall be allowed except by leave of the Municipal Board. Claim, when not to be allowed

(5) Upon the hearing of the application for approval of the closing of a road, the Municipal Board may make such order as it considers proper refusing its approval or granting its approval upon such terms and conditions as it considers proper, and any order of the Municipal Board approving of the closing of a road may contain provisions, Order of Municipal Board

- (a) determining the portion or portions of the road that shall be closed;
- (b) providing that the approval shall be subject to the making of compensation to persons whose land is injuriously affected by the closing of the road,
 - (i) by the payment by the Metropolitan Corporation to any of such persons of such damages as may be fixed by the Municipal Board,
 - (ii) by the providing of another road for the use of any such persons,
 - (iii) by the vesting of any portion of the road allowance so closed in any of such persons notwithstanding any other Act, and
 - (iv) in such other manner as the Municipal Board considers proper;
- (c) providing for the payment of the costs of any person appearing on such application and fixing the amount of such costs; and
- (d) providing for the doing of such other acts as in the circumstances it considers proper.

(6) Upon the approval of the Municipal Board being so obtained but subject to the provisions of the order of the Municipal Board made on the application for such approval, the Metropolitan Corporation may do all such acts as may be necessary to close the road in respect of which the application is made. Closing road

(7) Where, at any time after making application for the approval of the Municipal Board of the closing of a road, the Metropolitan Corporation discontinues its application or, having obtained such approval, does not proceed with the closing of the road and does not pay the compensation provided for in the order of the Municipal Board, the Municipal Board may, upon the application of any person whose land would be injuriously Idem

affected by the closing of the road and who has appeared upon such application for approval, make such order as to costs against the Metropolitan Corporation as it considers proper and may fix the amount of such costs.

Appeal

(8) Any person who claims to be injuriously affected by the closing of a road may, by leave of the Court of Appeal, appeal to that court from any order of the Municipal Board approving the closing of such road, and the Metropolitan Corporation may, upon like leave, appeal from any order of the Municipal Board made on an application under this section.

Leave to appeal

(9) The leave may be granted on such terms as to the giving of security for costs and otherwise as the court considers just.

Practice and procedure on appeal

(10) The practice and procedure as to the appeal and matters incidental thereto shall be the same, *mutatis mutandis*, as upon an appeal from a county court, and the decision of the Court of Appeal is final.

R.S.O. 1970, c. 323, s. 95 not to apply

(11) Section 95 of *The Ontario Municipal Board Act* does not apply to an appeal under this section. R.S.O. 1960, c. 260, s. 98.

Private roads, etc., opening upon metropolitan controlled-access road

92.—(1) The Metropolitan Corporation may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, gate or other structure or facility as a means of access to a metropolitan controlled-access road and may impose penalties for contravention of any such by-law.

Notice

(2) The Metropolitan Corporation may give notice to the owner of any land requiring him to close up any private road, entranceway, gate or other structure or facility constructed or used as a means of access to a metropolitan controlled-access road in contravention of a by-law passed under subsection 1.

Service of notice

(3) Every notice given under subsection 2 shall be in writing and shall be served personally or by registered mail and, in the case of service by registered mail, shall be deemed to have been received on the second day following the mailing thereof.

Failure to comply with notice

(4) Where the person to whom notice is given under subsection 2 fails to comply with the notice within thirty days after its receipt, the Metropolitan Corporation may by resolution direct any officer, employee or agent of the municipality to enter upon the land of such person and do or cause to be done whatever may be necessary to close up the private road, entranceway, gate or other structure or facility as required by the notice.

Offence

(5) Every person who fails to comply with a notice given under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence.

(6) Where a notice given under subsection 2 has been complied with, the Metropolitan Corporation shall make due compensation to the owner of the land if the private road, entranceway, gate or other structure or facility constructed or used as a means of access to a metropolitan controlled-access road was constructed or used, as the case may be,

Compensation

- (a) before the day on which the by-law designating the road as a metropolitan controlled-access road became effective; or
- (b) in compliance with a by-law passed under subsection 1, in which case the making of compensation is subject to any provisions of such by-law.

(7) Every claim for such compensation shall be determined in accordance with subsections 2 to 5 of section 12 of *The Highway Improvement Act*, which subsections apply *mutatis mutandis*. R.S.O. 1960, c. 260, s. 99.

Procedure

R.S.O. 1970, c. 201

93. Sections 92, 94, 95, 96, 99, and 102 of *The Highway Improvement Act* apply *mutatis mutandis* to any metropolitan road. R.S.O. 1960, c. 260, s. 100.

Application of R.S.O. 1970, c. 201

94. The Metropolitan Council may contribute such amount as the Metropolitan Council considers proper as its share of the cost of maintenance of the part of the Malton Road in the County of Peel extending from the County of York to the Malton Airport thereby assuming the liability of The Corporation of the City of Toronto under an agreement dated July 2, 1943, but not to exceed 25 per cent of the annual maintenance costs of such part of the road. R.S.O. 1960, c. 260, s. 103.

Contribution towards maintenance of Malton Road

95.—(1) Where the Metropolitan Corporation assumes as a metropolitan road any road in an area municipality, other than a road mentioned in section 67,

Metropolitan liability when road assumed

- (a) no compensation or damages shall be payable to the area municipality in which it was vested;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of such road, but nothing in this clause requires the Metropolitan Corporation to pay that portion of the amounts of principal and interest that under *The Local Improvement Act* is payable as the owners' share of a local improvement work.

R.S.O. 1970, c. 255

(2) Notwithstanding subsection 1, the Metropolitan Corporation shall, after the 1st day of January, 1956, pay to The Corporation of the Township of North York before the due date

Liability re Bayview bridge

all amounts of principal and interest becoming due upon any outstanding debentures of the Bayview Avenue bridge that are payable as the owners' share of such local improvement work.

Default

(3) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 1, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Settling
of doubts

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the road assumed, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1960, c. 260, s. 106.

Stopping up
highways

96.—(1) Where an area municipality intends to stop up a highway or part of a highway, it shall so notify the secretary of the board of the Metropolitan Toronto Planning Area by registered mail.

Agreement

(2) If the Metropolitan Toronto Planning Board objects to such stopping up, it shall so notify the council of the area municipality by registered mail within twenty-one days of the receipt of the notice under subsection 1 and the highway or part thereof concerned shall not be stopped up except by agreement between the area municipality and the board and failing agreement the Municipal Board, upon application, may determine the matter and its decision is final.

Approval of
judge not
required

R.S.O. 1970,
c. 284

(3) In the case of a township in the Metropolitan Area, it is not necessary to obtain the approval of the judge of the county court to such stopping up under section 443 of *The Municipal Act*. R.S.O. 1960, c. 260, s. 107.

PART VII

METROPOLITAN TRANSPORTATION

Interpre-
tation

97. In this Part,

- (a) "Commission" means the Toronto Transit Commission established under this Part;
- (b) "Former Commission" means The Toronto Transportation Commission. R.S.O. 1960, c. 260, s. 108.

Commission
established

98. The Toronto Transit Commission is continued with the powers, rights, authorities and privileges vested in it by this Act. R.S.O. 1960, c. 260, s. 109.

Corporation
members

99.—(1) The Commission is a body corporate and shall consist of five members appointed by by-law of the Metropolitan Council. R.S.O. 1960, c. 260, s. 110 (1).

Term of
office

(2) A member shall hold office until his successor is appointed, and, except in the case of the filling of a vacancy occurring during

the term of office, a member shall be appointed for a term of three years.

(3) For the purpose of instituting a three-year term on a staggered basis, the Metropolitan Council may designate the terms of office of the members in office on the 30th day of April, 1963.

Institution
of three-
year term

(4) The Metropolitan Council may provide that the Commission shall consist of not fewer than three members. 1962-63, c. 89, s. 7.

Composition
of
Commission

(5) No person is eligible to be appointed as a member of the Commission unless he is a resident and a ratepayer of an area municipality. R.S.O. 1960, c. 260, s. 110 (5).

Qualifica-
tion

(6) Notwithstanding subsection 2, where a member of the Metropolitan Council is appointed as a member of the Commission he shall not be appointed for a term of office extending beyond his term of office on the Council, and he shall cease to be a member of the Commission upon ceasing to be a member of the Metropolitan Council. 1970, c. 133, s. 3 (1).

Term of
office where
member is
member of
Metropolitan
Council

(7) No appointment of a member of the Commission shall be made except on the affirmative vote of at least two-thirds of the members of the Metropolitan Council present and voting.

Two-thirds
vote

(8) A member of the Commission is eligible for reappointment on the expiration of his term of office.

Re-
appointment

(9) Where the office of a member of the Commission becomes vacant during his term of office, the Metropolitan Council shall immediately appoint a member who shall hold office for the remainder of the term for which his predecessor was appointed. R.S.O. 1960, c. 260, s. 110 (7-9).

Vacancies

(10) A majority of the members of the Commission constitutes a quorum. R.S.O. 1960, c. 260, s. 110 (10); 1970, c. 133, s. 3 (2).

Quorum

(11) The members of the Commission shall be paid such salary or other remuneration as may be fixed by by-law of the Metropolitan Council. R.S.O. 1960, c. 260, s. 110 (11).

Remunera-
tion

100.—(1) On the 1st day of January, 1954, there is hereby vested in the Commission,

Assets
vested in
Commission

- (a) all the undertaking, assets and real and personal property, wherever situate, owned by, vested in or held by the Former Commission, including the capital stock of Gray Coach Lines Limited held by it;
- (b) all real and personal property acquired or held by The Corporation of the City of Toronto for the purposes of or on behalf of the Former Commission;
- (c) all real and personal property acquired or held by any area municipality in respect of any service furnished by

the Former Commission to such municipality or any portion thereof.

Liabilities

(2) The Commission, on the 1st day of January, 1954, shall assume all liabilities of the Former Commission, and shall assume all liabilities of any area municipality incurred in respect of any property vested in the Former Commission under subsection 1.

No compensation or damages

(3) Subject to section 112, no compensation or damages shall be payable to the Former Commission or any area municipality in respect of any undertaking, assets and property vested in the Commission under this section.

Settling of doubts

(4) In the event of any doubt as to whether any particular asset or liability is vested in the Commission by this section, the Municipal Board, upon application, shall determine the matter and its decision is final and not subject to appeal.

Transfer of title

R.S.O. 1970,
cc. 409, 234, 45

(5) For the purposes of *The Registry Act*, *The Land Titles Act*, *The Bills of Sale and Chattel Mortgages Act* or any other Act affecting title to property, it is sufficient to cite this Act to show the transmission of title to the Commission and the vesting therein of any real or personal property or any interest therein, but, if an order has been made by the Municipal Board under subsection 4, the order shall be cited as well.

Former Commission dissolved

(6) The Former Commission is dissolved as of the 1st day of January, 1954.

Pension fund society

R.S.O. 1970,
c. 89

(7) On or after the 1st day of January, 1954, the Commission in relation to the Toronto Transportation Commission Pension Fund Society, a corporation subject to Part VI of *The Corporations Act* and incorporated by letters patent dated the 3rd day of January, 1940, shall stand in the place and stead of the Former Commission.

Idem

(8) The name of the said Toronto Transportation Commission Pension Fund Society is changed to "Toronto Transit Commission Pension Fund Society". R.S.O. 1960, c. 260, s. 111.

Sick benefit plan

R.S.O. 1970,
cc. 224, 360, 89

101.—(1) The Commission may provide by contract with an insurer licensed under *The Insurance Act* or with an association registered under *The Prepaid Hospital and Medical Services Act* or with a corporation to be known as the Toronto Transit Commission Sick Benefit Association, to be established subject to Part VI of *The Corporations Act*, for weekly sick-pay, special service, medical and surgical benefits for employees or any class thereof of the Commission and their wives or husbands and dependent children and retired employees in accordance with this section and for paying the whole or part of the cost thereof. R.S.O. 1960, c. 260, s. 112 (1); 1970, c. 66, s. 1 (1).

Idem

(2) The Commission shall only make contributions in respect of,

- (a) regular employees who have been employed for at least sixty days with the Commission and their wives or husbands and dependent children;
- (b) retired employees who reside in Ontario and who elect to continue the benefits,

and shall not make contributions in respect of temporary or seasonal employees or dependants of regular employees other than wives or husbands and dependent children.

(3) Special service and medical and surgical benefits may be provided for dependants other than wives or husbands and dependent children of regular employees, and for dependants of retired employees, who so elect, provided the cost thereof shall be borne by such employees. Special benefits for other dependants

(4) Sick-pay benefits shall not be provided for other than active regular employees of the Commission. Sick-pay benefits

(5) Weekly sick-pay in an amount greater than may be provided under the other provisions of this section may be provided for such employees who elect to bear the excess cost of such greater sick-pay. Greater sick-pay on election of employee

(6) The Commission may assume the cost of the administration of the benefits provided under this section. Administration costs

(7) The sick-pay, special service and medical and surgical benefits provided or to be provided before the 1st day of January, 1961, and contributions made in relation thereto by The Toronto Transportation Commission, the Toronto Transit Commission, the Toronto Transportation Commission Sick Benefit Association and the Toronto Transit Commission Sick Benefit Association are hereby confirmed and declared to be legal and valid. R.S.O. 1960, c. 260, s. 112 (3-8). Benefits validated

102.—(1) Where the Former Commission has agreed with any area municipality or other municipality or person, or any two or more of them, for services to be provided by the Former Commission, the Commission shall, on the 1st day of January, 1954, assume all liabilities and is entitled to all benefits of the Former Commission under such agreement and the Former Commission is relieved of any liability thereunder. Existing agreements

(2) Notwithstanding subsection 1 and notwithstanding anything in any such agreement, the Municipal Board, upon the application of the Commission or of any municipality or person who is a party to such agreement, may by order terminate or vary such agreement and adjust all rights and liabilities thereunder. R.S.O. 1960, c. 260, s. 113. Termination

Capital stock
of Gray
Coach Lines

103. No further investment in the capital stock of Gray Coach Lines, Limited shall be made by the Toronto Transit Commission, nor shall the capitalization of Gray Coach Lines, Limited hereafter be increased until the consent of the Metropolitan Council is first obtained thereto. R.S.O. 1960, c. 260, s. 114.

Powers and
duties of
Commission

104. On and after the 1st day of January, 1954, the Commission,

- (a) shall consolidate and co-ordinate all forms of local passenger transportation within the Metropolitan Area, with the exception of steam railways and taxis, and shall plan for the future development of such transportation so as to serve best the inhabitants of the Metropolitan Area;
- (b) has and may exercise, with respect to the entire Metropolitan Area, all the powers, rights, authorities and privileges with respect to the construction, maintenance, operation, extension, alteration, repair, control and management of local passenger transportation which the Former Commission had with respect to any part of the Metropolitan Area on the 31st day of December, 1953;
- (c) has and may exercise all the powers, rights, authorities and privileges with respect to the construction, maintenance, operation, extension, alteration, repair, control and management of local passenger transportation systems heretofore or hereafter conferred upon or exercisable by the council or corporation of any area municipality, and such powers, rights, authorities and privileges shall not be exercised by any area municipality or its council or by the Metropolitan Corporation or the Metropolitan Council. R.S.O. 1960, c. 260, s. 115.

Specific
powers

105.—(1) The Commission has, in particular, but not so as to restrict its general powers and duties, the following powers and duties:

- (a) To construct, maintain, operate, extend, alter, repair, control and manage a local transportation system within the Metropolitan Area by means of surface, underground or overhead railways, tramways or buses, or any other means of local transportation except steam railways and taxis.
- (b) To establish new local passenger transportation services in the Metropolitan Area as and when required and to alter, curtail or abolish any services if the Commission considers it desirable so to do.
- (c) If the Commission considers it desirable, to establish, construct, manage and operate parking lots for the

parking of vehicles in connection with its local passenger transportation system, and to charge fees for parking therein.

- (d) Subject to section 106, to fix such tolls and fares and establish such fare zones so that the revenue of the Commission shall be sufficient to make all transportation facilities under its control and management self-sustaining, after providing for such maintenance, renewals, depreciation, debt charges and reserves as it may think proper.
- (e) To purchase, lease, acquire and use any real or personal property for its purposes, but the Commission shall not acquire any property that is to be paid for by moneys raised on the issue of debentures of the Metropolitan Corporation unless the approval of the Metropolitan Council has first been obtained.
- (f) To make requisitions upon the Metropolitan Corporation for all sums of money necessary to carry out its powers and duties, but nothing in this Act divests the Metropolitan Council of its authority with reference to providing the money required for such works, and when such money is provided by the Metropolitan Corporation the treasurer of the Metropolitan Corporation shall upon the certificate of the Commission pay out any money so provided. R.S.O. 1960, c. 260, s. 116 (1); 1961-62, c. 88, s. 9; 1966, c. 96, s. 11.

(2) The power of the Metropolitan Council to acquire land for the purposes of the Metropolitan Corporation includes the power to acquire land for the purposes of the Commission. R.S.O. 1960, c. 260, s. 116 (2).

Acquisition of land

106.—(1) Subject to the approval of the Municipal Board, the Metropolitan Corporation may contribute to the capital costs of the Commission. 1961-62, c. 88, s. 10.

Metropolitan Corporation contributions to capital costs, to operating costs

(2) The Metropolitan Corporation may contribute to the cost of operating the transportation system operated by the Commission. 1962-63, c. 89, s. 8.

107.—(1) The Commission may enter into an agreement with any person, or with one or more area municipalities, or with one or more other municipalities situated within twenty-five miles of the Metropolitan Area, under which the Commission will operate a local passenger transportation service upon such terms as may be agreed upon, but every such agreement shall provide that any deficit in operations shall be paid by the person or municipality or municipalities, and if the agreement is with one or more municipalities the agreement shall provide that any surplus in operations shall be credited to the municipality or municipalities.

Agreements

Surplus
or deficit

(2) Where an agreement is entered into under subsection 1 with one or more municipalities, the council of any such municipality may pass by-laws,

- (a) providing that any deficit charged to the municipality shall be payable out of, and any surplus shall be credited to, the general funds of the municipality; or
- (b) with the approval of the Municipal Board, providing that any deficit shall be assessed against, and any surplus shall be credited to, the rateable property in any area or areas of the municipality defined in the by-law. R.S.O. 1960, c. 260, s. 117.

Interpre-
tation

108. In clauses *a* and *b* of subsection 1 of section 105 and in subsection 1 of section 109, "Metropolitan Area" shall be deemed to include the whole of Steeles Avenue where it is a boundary of an area municipality. 1965, c. 81, s. 3.

Application
of R.S.O.
1970,
cc. 392, 202,
375

109.—(1) For the purposes of *The Public Vehicles Act* and the regulations with respect to registration fees under *The Highway Traffic Act*, the Metropolitan Area shall be deemed to be one urban municipality and, for the purpose of *The Public Commercial Vehicles Act*, the Metropolitan Area shall be deemed to be one urban zone.

Exclusive
authority

(2) Except in accordance with an agreement made under subsection 3, no person other than the Commission shall, after the 1st day of July, 1954, operate a local passenger transportation service within the Metropolitan Area, with the exception of steam railways, taxis, buses owned and operated by a board of education, school board or private school and buses owned and operated by any corporation or organization solely for the purposes of the corporation or organization provided no fare or fee is charged for transportation.

Agreements

(3) An agreement may be entered into between the Commission and any person legally operating a local public passenger transportation service wholly within or partly within and partly without the Metropolitan Area on the 1st day of January, 1954, under which such person may continue to operate such service or any part thereof for such time and upon such terms and conditions as such agreement provides.

Existing
services

(4) Where a local public passenger transportation service is legally operating wholly within the Metropolitan Area on the 1st day of April, 1953, and continues in operation, and will be required by subsection 2 to cease to operate within the Metropolitan Area on the 1st day of July, 1954, or upon the termination of an agreement made under subsection 3,

- (a) the Commission may agree with the owner of the service, not later than one month before the date upon

which the service will be required to cease to operate, to purchase the assets and undertaking used in providing the service; and

- (b) if no agreement is entered into under clause *a*, the assets and undertaking used in providing the service, not disposed of by the owner thereof before the date upon which the service is required to cease to operate, shall vest in the Commission on that date.

(5) Where a local public passenger transportation service is legally operating partly within and partly without the Metropolitan Area on the 1st day of April, 1953, and continues in operation, and will be required by subsection 2 to cease to operate within the Metropolitan Area on the 1st day of July, 1954, or upon the termination of an agreement made under subsection 3,

Idem

- (a) the Commission may agree with the owner of the service, not later than one month before the date upon which the service will be required to cease to operate within the Metropolitan Area, to purchase the assets and undertaking used in providing the entire service or to purchase the portion thereof that is allocated to the provision of the service within the Metropolitan Area; and

- (b) if no agreement is entered into under clause *a*, the portion of the assets and undertaking that is allocated to the provision of the service within the Metropolitan Area, not disposed of by the owner thereof before the date upon which the service is required to cease to operate, shall vest in the Commission on that date.

(6) Where the whole or a portion of the assets and undertaking used in or allocated to the provision of a local public passenger transportation service vests in the Commission, the Commission shall pay due compensation therefor to the owner thereof, based upon the value to the owner of the assets and undertaking used in providing the service where the service was operated wholly within the Metropolitan Area, and based upon the proportion of such value that is allocated to the provision of the service within the Metropolitan Area where the service was operated partly within and partly without the Metropolitan Area.

Compensation

(7) The amount of any compensation payable under this section or any question of allocation, if not mutually agreed upon, shall be determined by the Municipal Board, and the decision of the Municipal Board on any question of allocation is final.

Compensation and allocation

(8) The Commission shall be deemed to be a street railway company for the purposes of *The Railways Act*.

Application of R.S.O. 1950, c. 331

(9) Where a local public passenger transportation service operating partly within and partly without the Metropolitan

Outside service

Area is required by subsection 2 to cease to operate within the Metropolitan Area and thereupon discontinues the portion of its service beyond the Metropolitan Area, the Municipal Board may, on the application of any municipality, order the Commission to furnish a similar service upon such terms and conditions and to such extent as may be fixed by the Municipal Board.

Certificate
of public
necessity and
convenience
R.S.O. 1970,
c. 392

(10) Where the Municipal Board orders the Commission to furnish a service under subsection 9, the Commission shall be deemed to have applied for an operating licence under *The Public Vehicles Act*, and the Ontario Highway Transport Board shall issue a certificate of public necessity and convenience, with respect thereto.

Offence

(11) Every person who contravenes any of the provisions of subsection 2 is guilty of an offence and on summary conviction is liable to a fine of \$50 for the first offence and \$300 for each subsequent offence. R.S.O. 1960, c. 260, s. 118.

Annual
report

110. Immediately after the close of each calendar year, the Commission shall prepare, deliver to the Metropolitan Council, and publish,

- (a) a complete audited and certified financial statement of its affairs, including revenue and expense account, balance sheet and profit and loss statement;
- (b) a general report of its operations during that calendar year. R.S.O. 1960, c. 260, s. 119.

Actions, etc.,
against
Commission

111.—(1) All claims, actions and demands arising from or relating to the construction, maintenance, operation, extension, alteration, repair, control and management of the Commission's transportation system and property, or arising from the exercise of any of the powers of the Commission, shall be made upon and brought against the Commission and not upon or against the Metropolitan Corporation or any area municipality.

Idem

(2) The Commission may sue and be sued in its own name. R.S.O. 1960, c. 260, s. 120.

Existing
debenture
liability

112.—(1) On and after the 1st day of January, 1954, the Metropolitan Corporation shall pay to each area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by that area municipality in respect of any property vested in the Commission under subsection 1 of section 100 or issued by that area municipality for or on behalf of the Former Commission.

Payments by
Commission

(2) The Commission shall pay to the Metropolitan Corporation, before the date mentioned in subsection 1, the amount which

the Metropolitan Corporation is liable to pay on that date under subsection 1.

(3) If the Metropolitan Corporation fails to make any payment as required by subsection 1, or if the Commission fails to make any payment as required by subsection 2, the area municipality may charge the Metropolitan Corporation, or the Metropolitan Corporation may charge the Commission, as the case may be, interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. Default

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of any property vested in the Commission under subsection 1 of section 100 or for or on behalf of the Former Commission, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1960, c. 260, s. 121. Settling of doubts

113. The Metropolitan Council may make an annual grant of not more than \$169,000 to the Toronto Transit Commission toward the cost of providing free transportation for blind persons and war amputees. R.S.O. 1960, c. 260, s. 122; 1968-69, c. 77, s. 6. Grants re free transportation for blind, etc.

114. The Metropolitan Council may expend moneys and make grants to the Commission in such amounts and on such terms and conditions as the Council may consider appropriate to meet the cost of providing transportation free of charge or at a reduced rate for persons resident in the Metropolitan Area who are sixty-five years of age or over, or for any class or classes of such persons. 1968-69, c. 77, s. 7. Grants, etc., re free or reduced rate transportation for the aged

115.—(1) So long as any lands and easements owned by the Metropolitan Corporation or by the Commission are used by the Commission for the purpose of a subway or other rapid transit or as car yards or shops for or in connection with such subway or other rapid transit, such lands and easements and buildings and structures thereon so owned and used are exempt from business and real property taxation, and the Commission is not liable for payments in lieu thereof under section 35 of *The Assessment Act*. 1967, c. 58, s. 6 (1). Tax exemption re subway and other rapid transit
R.S.O. 1970, c. 32

(2) Subsection 1 does not apply to concessions operated, rented or leased in subway or rapid transit stations. 1967, c. 58, s. 6 (2). Application to concessions

(3) The exemption provided by subsection 1 shall be deemed to be an exemption from taxation provided by section 3 of *The Assessment Act*. R.S.O. 1960, c. 260, s. 123 (3). Deemed exemption under R.S.O. 1970, c. 32, s. 3

PART VIII

EDUCATION

Interpre-
tation**116.** In this Part,

- (a) "Department" means the Department of Education;
- (b) "Minister" means the Minister of Education;
- (c) "regulations" means regulations made under *The Department of Education Act*;
- (d) "resident pupils" means pupils,
 - (i) who reside with their parents or guardians, or
 - (ii) who or whose parents or guardians are assessed for an amount equal to the average assessment of the ratepayers,

within the limits of a secondary school district for secondary school purposes, or a school section for public school purposes, within the Metropolitan Area, but does not include pupils residing with their parents or guardians on land that is exempt from taxation for school purposes, who and whose parents or guardians are not assessed for, and do not pay, taxes for secondary school purposes or public school purposes, respectively, in the secondary school district or school section;

- (e) "School Board" means The Metropolitan Toronto School Board. 1966, c. 96, s. 12, *part*.

Area municipi-
pality a second-
ary school
district,
urban school
section
Boards of
education
in area
municipi-
palities

117. Each area municipality is a secondary school district and is deemed to be an urban school section. 1966, c. 96, s. 12, *part*.

118.—(1) On and after the 1st day of January, 1967, there shall be a board of education for each area municipality, to be known respectively as,

- (a) The Board of Education for the Borough of East York;
- (b) The Board of Education for the Borough of Etobicoke;
- (c) The Board of Education for the Borough of North York;
- (d) The Board of Education for the Borough of Scarborough;
- (e) The Board of Education for the City of Toronto; and
- (f) The Board of Education for the Borough of York. 1966, c. 96, s. 12, *part*.

Election
by wards

(2) The elective members of the boards of education for the City of Toronto and the boroughs of Etobicoke and East York shall consist of two members to be elected in each ward of the city or borough, as the case may be, and the elective members of the

boards of education for each of the other area municipalities shall consist of one member to be elected in each ward of the area municipality.

(3) Nothing in subsection 2 prevents the changing of the composition of a board of education and the election of the members thereof in accordance with the provisions of *The Secondary Schools and Boards of Education Act*. 1968-69, c. 77, s. 8. Applica-
tion of
R.S.O. 1970,
c. 425

(4) The members of such boards of education shall hold office for a three-year term and until their successors are elected or appointed and a new board organized. Term of
office

(5) On the day on which each such new board of education holds its first meeting, Dissolution
of former
boards of
education

(a) the board or boards of education having jurisdiction in the area municipality for which such new board of education is established are dissolved; and

(b) all the assets and liabilities of the former board or boards of education are assets and liabilities of such new board of education. 1966, c. 96, s. 12, *part*.

119.—(1) All the provisions of *The Secondary Schools and Boards of Education Act* that are not inconsistent with this Act apply to such boards of education in the same manner and to the same extent as if such boards of education had been created by by-laws pursuant to *The Secondary Schools and Boards of Education Act*. Application
of
R.S.O. 1970,
c. 425

(2) Each such board of education has all the powers, duties and responsibilities conferred and imposed upon it by any general or special Act and regulations made thereunder that are not inconsistent with the provisions of this Act, and shall comply with all the requirements of this Act that apply to them. Powers and
duties

(3) Each such board of education may borrow money under section 71 of *The Schools Administration Act* only with the approval of the Metropolitan Council on the recommendation of the School Board. Borrowing
powers
R.S.O. 1970,
c. 424

(4) Each such board of education shall have a director of education appointed under Part VI of *The Schools Administration Act*, and he shall also be the secretary and treasurer of such board. Director of
education

(5) An employee of a board of education in the Metropolitan Area or of the School Board is not eligible to be a member of any board of education in the Metropolitan Area. 1966, c. 96, s. 12, *part*. Eligibility
of employee
of board to
be member

120. The first meeting of each such board of education shall be held not later than the second Wednesday in January in each First
meeting

year at such place and time as the board may determine. 1966, c. 96, s. 12, *part, amended*.

School
Board
continued

121.—(1) The Metropolitan School Board is continued a corporation under the name of The Metropolitan Toronto School Board with the powers and duties and for the purposes set out in this Act.

Composition
of School
Board

(2) On and after the 1st day of January, 1967, the School Board, subject to subsection 5, shall be composed of the chairman of each board of education in the Metropolitan Area and,

- (a) one member of and appointed by The Board of Education for the Borough of Etobicoke;
- (b) two members of and appointed by The Board of Education for the Borough of North York;
- (c) one member of and appointed by The Board of Education for the Borough of Scarborough;
- (d) five members of and appointed by The Board of Education for the City of Toronto; and
- (e) three members appointed by the Metropolitan Separate School Board. 1966, c. 96, s. 12, *part*.

Alternate
members

(3) The Board of Education for the Borough of East York and The Board of Education for the Borough of York may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote or otherwise participate in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which such member belongs or of the member appointed in place of the chairman under subsection 6. 1968, c. 80, s. 7.

Appointment
by
boards of
education

(4) The appointment of members of a board of education as members of the School Board shall be made at the first meeting of the board of education in each year after elections have been held in the area municipalities.

Election of
chairman

(5) At the first meeting of the School Board in each year, at which a quorum is present, the School Board shall elect as chairman one of its members to hold office for that year and until his successor is elected in accordance with this section.

Disqualifica-
tion
R.S.O. 1970,
c. 425

(6) No person employed by the School Board or appointed under section 24 of *The Secondary Schools and Boards of Education Act* to a board of education in the Metropolitan Area is eligible to be a member of the School Board, and, where the chairman of any such board of education is so appointed, the board of education shall appoint another member thereof as a member of the School Board. 1966, c. 96, s. 12, *part*.

122.—(1) The first meeting of the School Board in each year shall be held not later than the third Wednesday in January on such date and at such time and place as may be fixed by resolution of the School Board.

First
meeting
in year

(2) At the first meeting of the School Board in each year after elections have been held in the area municipalities, at which a quorum is present, the members present shall select a member to preside, and the person so selected may vote as a member, and the School Board shall organize as a board.

Organiza-
tion
meeting

(3) A person entitled to be a member of the School Board under subsection 2 or 6 of section 121 shall not take his seat until he has filed with the person presiding at the first meeting a certificate under the hand of the secretary of the board of education of which he is the chairman or by which he was appointed, or of the Metropolitan Separate School Board, as the case may be, and under the seal of such board certifying that he is entitled to be a member.

Certificate
of quali-
fication

(4) No business shall be proceeded with at the first meeting until after the certificates mentioned in subsection 3 have been filed by all the members who present themselves for that purpose.

Certificates
of office

(5) The School Board shall be deemed to be organized when the certificates have been filed by at least nine members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to file such certificate. 1966, c. 96, s. 12, *part.*

When
School
Board
deemed
organized

123. Subject to section 122, all meetings of the School Board shall be held at such places within the Metropolitan Area and at such times as the School Board from time to time appoints. 1966, c. 96, s. 12, *part.*

Place of
meetings

124.—(1) Eight members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and ten members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry such matter.

Quorum,
voting

(2) Each member of the School Board has one vote only.

One vote

(3) A member of the School Board appointed under clause *e* of subsection 2 of section 121 shall not vote or otherwise take part in any of the proceedings of the School Board exclusively affecting the public schools. 1966, c. 96, s. 12, *part.*

Voting by
separate
school repre-
sentatives

Term of
office

125.—(1) The members of the School Board appointed by boards of education shall hold office while they are members of their respective boards of education and until their successors take office and a new School Board is organized, provided that, if, as the result of a change in the chairmanship of a board of education, a member of the board of education who is also a member of the School Board becomes chairman of such board of education, his seat on the School Board, otherwise than as chairman of the board of education, becomes vacant, and another member of the board of education shall be appointed to fill the vacancy.

Separate
school repre-
sentatives

(2) The members of the School Board appointed by the Metropolitan Separate School Board, shall hold office for three years and until their successors are appointed. 1966, c. 96, s. 12, *part, amended.*

Vacancies,
chairman

126.—(1) When a vacancy occurs in the office of chairman, the School Board shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect as chairman one of its members to hold office for the remainder of the term of his predecessor.

Other
members

(2) When a vacancy occurs in the office of an appointed member, other than a member appointed by the Metropolitan Separate School Board, the board of education of which he was a member shall, within fifteen days after the vacancy occurs, appoint his successor from among its members to hold office for the remainder of the term of his predecessor.

Idem

(3) When a vacancy occurs in the office of a member appointed by the Metropolitan Separate School Board, that board shall, within fifteen days after the vacancy occurs, appoint his successor to hold office for the remainder of the term of his predecessor.

Resignation
of chairman

(4) Where the chairman of the School Board is a member of a board of education, he may resign his office as chairman without resigning from such board of education.

Vacancy
due to
absence from
meetings

(5) The seat of a member of the School Board shall become vacant if he absents himself from the meetings of the School Board for three consecutive months without being authorized so to do by a resolution of the School Board entered upon its minutes, and the School Board shall forthwith declare the seat to be vacant. 1966, c. 96, s. 12, *part.*

Powers and
duties of
School
Board

127. It is the duty of the School Board and it has power,

- (a) to require each board of education within the Metropolitan Area to prepare and submit to the School Board, from time to time as the School Board may prescribe, its proposals and recommendations with respect to the

provision of adequate public elementary and secondary school accommodation within its jurisdiction, and the estimated cost thereof;

- (b) to review and consolidate all such proposals, in consultation with the boards of education, the Department and the Metropolitan Council and their respective officials, and to prepare and revise from time to time a composite proposal and the recommendations of the School Board for the provision of adequate public elementary, academic secondary and vocational secondary school accommodation for the Metropolitan Area as a whole;
- (c) to submit to the Metropolitan Council from time to time the composite proposal referred to in clause *b*, together with all relevant information with respect thereto;
- (d) notwithstanding the provisions of this or any other Act, to review and to determine, in consultation with the respective boards of education, the boundaries of the attendance areas for those public elementary and secondary schools in the Metropolitan Area that are to be attended by resident pupils from more than one school section or secondary school district;
- (e) to appoint a director who holds a certificate of qualification as a supervisory officer, who shall be secretary-treasurer of the School Board, and such other officers and staff as may be considered expedient for the purposes of the School Board, to pay their salaries and, subject to the regulations, to prescribe their duties, and to provide and pay for office accommodation, furnishings, fuel, light, stationery, equipment, insurance and miscellaneous expenses, including travelling expenses of officers and members of the School Board, if authorized by the School Board;
- (f) if considered expedient, to pay to each member a mileage allowance not exceeding 10 cents for each mile necessarily travelled by him in going to the meetings of the School Board from his home and in returning to his home, and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board;
- (g) to prepare, adopt and submit each year to the Metropolitan Council, on or before such date and in such form as the Metropolitan Council may prescribe, the estimates

of the School Board for the current year, separately for public elementary and for secondary school purposes, of all sums required to meet its expenditures and obligations under this Act, and such estimates,

- (i) shall set forth the estimated revenues and expenditures of the School Board,
- (ii) shall make due allowance for a surplus of any previous year that will be available during the current year,
- (iii) shall provide for a deficit of a previous year,
- (iv) shall provide for the amounts of principal and interest payable during the current year in respect of all outstanding debentures issued for school purposes,
- (v) may provide for expenditures to be made out of current funds for permanent improvements, such expenditures not to exceed a sum calculated at two mills in the dollar upon the total assessment in the Metropolitan Area for secondary school purposes and two mills in the dollar upon the total assessment in the Metropolitan Area for public school purposes according to the last revised assessment rolls. 1966, c. 96, s. 12, *part*; 1968, c. 80, s. 8.

Interpretation

123.—(1) In this section, “sub-system” means an identifiable, predesigned, physically integrated, co-ordinated series of parts that function as a unit of the construction of a building.

Sub-systems

(2) Where one or more boards of education within the Metropolitan Area have agreed to participate with the School Board in a unified school building construction program, the School Board has power,

- (a) to enter into contracts with persons for the production of sub-systems to be used in the construction of schools by such boards of education and to give commitments to such persons that the sub-systems that they contract to produce will be used in the construction of a minimum of square feet of school building construction;
- (b) to enter into contracts with persons for the performance of work or services or for the placing or furnishing of materials upon or in respect of such school building construction;
- (c) to require such boards of education to construct the school buildings necessary to fulfil commitments given by the School Board and to use in constructing such buildings the sub-systems, services and materials of the persons with whom the School Board has entered into contracts; and

- (d) to supervise and control the programing and integration of the construction of such school buildings. 1968, c. 80, s. 9.

129.—(1) Sections 43, 44 and 46 of *The Schools Administration Act* apply *mutatis mutandis* to the School Board.

Application
of R.S.O.
1970, c. 424,
ss. 43, 44, 46

(2) Where the School Board employs or has employed a person theretofore employed by a board of education in the Metropolitan Area, the employee shall be deemed to remain an employee of the board of education for the purpose of any pension plan of such board of education, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the board of education, until the School Board has provided a pension plan for its employees and such employee has elected, in writing, to participate therein.

Pensions

(3) Until such election, the School Board shall deduct by instalments from the remuneration of the employee the amount that such employee is required to pay in accordance with the provisions of the plan of the board of education, and the School Board shall pay to the board of education in instalments,

Idem

(a) the amounts so deducted; and

(b) the future service contributions payable under the plan by the board of education.

(4) Where the School Board employs or has employed a person theretofore employed by a board of education in the Metropolitan Area, the employee shall be deemed to remain an employee of the board of education for the purposes of any sick leave credit plan of such board of education until the School Board has established a sick leave credit plan for its employees, whereupon the School Board shall place to the credit of the employee the sick leave credits standing to his credit in the plan of the board of education. 1966, c. 96, s. 12, *part*.

Sick leave
credits

130.—(1) The Metropolitan Corporation shall pay to the School Board, in monthly instalments, the moneys required by the School Board as shown in its estimates submitted under clause g of section 127, except the moneys required for the purposes of subclauses iv and v of such clause, and the moneys required for the purposes of such subclause v shall be paid to the School Board from time to time as required.

Payment
by Metro-
politan
Corporation

(2) The School Board shall pay to each board of education in the Metropolitan Area, in monthly instalments, the moneys required by such board of education as shown in its estimates approved by the School Board, except moneys approved for permanent improvements, which shall be paid to such board of education from time to time as required, but the total of such

Payment
by School
Board to
boards of
education

monthly payments shall be reduced by the amounts, if any, that are deducted from the legislative grants for payment to the Teachers' Superannuation Fund and the Canada Pension Plan on behalf of the teachers employed by that board of education. 1966, c. 96, s. 12, *part*.

Legislative
grants

131.—(1) The special and general legislative grants, which but for this Act would be payable to boards of education in the Metropolitan Area, shall be calculated as provided in the regulations.

Grants
payable
to School
Board

(2) The special and general legislative grants, except those paid to boards of education under subsection 3, shall be paid to the School Board.

Grants
payable to
boards of
education

(3) The legislative grants in respect of expenditures made by a board of education for the construction of classrooms and for items eligible for stimulation grants, to the extent that such expenditures were approved by the Minister and raised entirely by levies under subsection 5 of section 132 in the area municipality in which such board of education has jurisdiction, shall be paid to the board of education. 1966, c. 96, s. 12, *part*.

Estimates
of boards
of education

132.—(1) Each board of education in the Metropolitan Area, instead of submitting to a municipal council its annual estimates as provided by law, shall prepare, adopt and submit each year to the School Board, on or before such date and in such form as the School Board may prescribe, its estimates for the current year, separately for public elementary and for secondary school purposes, of all sums required during the year for the purposes of the board of education, and such estimates,

- (a) shall set forth the estimated revenues and expenditures of the board of education;
- (b) shall make due allowance for a surplus of any previous year that will be available during the current year;
- (c) shall provide for a deficit of any previous year;
- (d) may provide for expenditures to be made out of current funds for permanent improvements.

Approval of
estimates
by School
Board

(2) Upon receipt by the School Board of the estimates of all the boards of education in the Metropolitan Area, the School Board shall consider the estimates, having regard to the limit upon the amount that it may include in its estimates for expenditures for permanent improvements out of current funds, and approve such estimates in whole or in part, and shall notify each such board of education of the extent to which its estimates have been approved by the School Board.

Idem

(3) In considering such estimates, the School Board shall endeavour to provide for all boards of education in the Metropoli-

tan Area, having regard to their varying needs, the funds necessary for an educational program throughout the Metropolitan Area.

(4) If the estimates of a board of education are not approved in whole by the School Board, the board of education may submit to the council of the area municipality in which it has jurisdiction, within twenty days after notice is given pursuant to subsection 2, its estimates made up as provided for in subsection 1, except that such estimates shall include and make due allowance for the revenues to be derived from the School Board pursuant to the estimates approved by the School Board, provided that, before submitting such estimates to the council, the board of education shall revise the estimates, if necessary, so that the difference between,

Estimates to council of area municipality

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one and one-half mills in the dollar upon the total assessment in the area municipality for public school purposes according to the last revised assessment roll; and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total assessment in the area municipality for secondary school purposes according to the last revised assessment roll.

(5) The council of each area municipality shall levy and collect each year and transfer to the board of education for that area municipality from time to time as required, but not later than the 15th day of December, such sums as may be required by the board of education for its purposes during the year in accordance with its estimates submitted to the council pursuant to subsection 4.

Local levy

(6) The amount required to be raised by the council of each area municipality under subsection 5,

Idem

- (a) for public school purposes, shall be raised by levy upon the whole rateable property rateable for public school purposes; and
- (b) for secondary school purposes, shall be raised by levy upon the whole rateable property rateable for secondary school purposes,

within the area municipality according to the last revised assessment roll thereof.

Appeal to
O.M.B.

(7) If the estimates of a board of education are not approved in whole by the School Board, the board of education may, within fifteen days after notice is given pursuant to subsection 2, appeal to the Municipal Board, provided that any amount in issue in such an appeal shall not be included in its estimates under subsection 4.

Powers of
O.M.B.

(8) The Municipal Board shall conduct a public hearing of every such appeal upon such notice as it considers proper and may dismiss the appeal or may by order require the School Board to provide additional funds to the board of education to an extent not exceeding the amounts in issue in such appeal, and, in considering any such appeal, the Municipal Board shall have regard amongst other things to the matters referred to in subsections 2 and 3.

Where order
requires
additional
funds to be
provided

(9) If an order of the Municipal Board requiring the School Board to provide additional funds to a board of education,

- (a) is issued in any year before the estimates of the School Board for such year are submitted to the Metropolitan Council, the School Board shall include in its estimates for that year the amount required to be paid pursuant to the order; or
- (b) is issued in any year after the estimates of the School Board for such year are submitted to the Metropolitan Council, the Metropolitan Council shall advance to the School Board the amount required to be paid pursuant to the order and may borrow money from time to time by way of promissory note for such purpose, and the School Board shall include in its estimates for the next succeeding year the amount required to repay such advance and the interest charges on any amounts borrowed by the Metropolitan Council for the purpose of making such advance.

Order,
terms and
conditions

(10) The Municipal Board may issue an order under subsection 8 upon such terms and conditions, including terms and conditions with respect to the use of the funds to be paid to the board of education thereunder, as the Municipal Board considers appropriate. 1966, c. 96, s. 12, *part*.

School
debenture
liability

133.—(1) On and after the 1st day of January, 1954, the Metropolitan Corporation shall pay to each area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality for public or secondary school purposes.

Default

(2) If the Metropolitan Corporation fails to make any payments as required by subsection 1, the area municipality may charge the Metropolitan Corporation interest at the rate of

one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

(3) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued for public or secondary school purposes, the Municipal Board, upon application, may determine the matter, and its decision is final. 1966, c. 96, s. 12, *part*. Settling
of doubts

134. Notwithstanding any order of the Municipal Board or any debenture by-law passed pursuant thereto, all amounts of principal and interest becoming due on and after the 1st day of January, 1967, with respect to any debentures issued for public or secondary school purposes by the Metropolitan Corporation since the 1st day of January, 1954, or issued hereafter, shall be repaid by levies against all the area municipalities. 1966, c. 96, s. 12, *part*. Liability
for school
debentures
issued by
the Metro-
politan
Corporation

135.—(1) Notwithstanding the provisions of this or any other Act, no board of education in the Metropolitan Area, Discon-
tinuation
and sale
of schools

- (a) shall discontinue the operation and maintenance of any school under its jurisdiction; or
- (b) shall sell, lease or otherwise dispose of any school site or school building, or any item of school property the cost of which was financed in whole or in part by the issue of debentures,

without the approval of the School Board.

(2) Where a board of education sells, leases or otherwise disposes of any school site or school building in accordance with clause *b* of subsection 1, it shall pay the proceeds of such sale to the School Board. Proceeds of
sale of
property

(3) The School Board shall use the proceeds of the disposal of property paid to it under subsection 2 only for permanent improvements, Use of
proceeds

- (a) if such property was used for public school purposes, for public school purposes; or
- (b) if such property was used for secondary school purposes, for secondary school purposes. 1966, c. 96, s. 12, *part*.

136. A board of education with the approval of the School Board may transfer property that was acquired for public school purposes to secondary school purposes or *vice versa*, and, where property is so transferred, the transfer shall be made effective on the 1st day of January in any year and the principal and interest on any debentures issued with respect to such property to be raised in that year and subsequent years by levy shall be raised by Transfer of
public school
property to
secondary
school
purposes and
vice versa

levy on the whole rateable property rateable for the purposes to which such property is transferred. 1966, c. 96, s. 12, *part*.

Application
for
debentures
for school
purposes
R.S.O. 1970,
c. 424

137.—(1) Where a board of education in the Metropolitan Area desires that the sums required for permanent improvements as defined in paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act* shall be raised by the issue and sale of debentures, it may apply to the School Board and it shall at the same time deliver a copy of such application to the clerk of the Metropolitan Corporation.

Idem

(2) The application shall state the purpose of the proposed borrowing, the nature and the estimated cost of the proposed work or project.

Disposition
of applica-
tion by
School
Board

(3) The School Board, at its first meeting after receiving the application or as soon thereafter as possible, shall consider and approve or disapprove the application, and the secretary of the School Board shall forward a certified copy of its resolution in respect of the application to the secretary of the applicant board of education and to the clerk of the Metropolitan Corporation.

Renovation
of school
buildings

(4) A board of education in the Metropolitan Area may renovate any school buildings under its jurisdiction and the same shall be deemed permanent improvements for the purposes of this Act. 1966, c. 96, s. 12, *part*.

Disposition
of applica-
tion by
Metro-
politan
Council

138.—(1) The Metropolitan Council, after the application referred to in section 137 has been dealt with by the School Board, shall consider and approve or disapprove the application, and the clerk of the Metropolitan Corporation shall thereupon give notice of the decision of the Metropolitan Council to the secretary of the applicant board of education and to the secretary of the School Board.

Application
to Municipal
Board
R.S.O. 1970,
c. 323

(2) If the Metropolitan Council approves the application, it shall apply to the Municipal Board for its approval under section 64 of *The Ontario Municipal Board Act* and, if the Municipal Board approves, the Metropolitan Council shall pass a by-law authorizing the borrowing of money by the issue and sale of debentures of the Metropolitan Corporation for the purposes stated in the application.

Appeal

(3) Where the Metropolitan Council disapproves the application, the applicant board of education or the School Board may appeal to the Municipal Board for an order requiring the Metropolitan Council to pass a by-law for borrowing money by the issue and sale of debentures for the purpose or purposes stated in the application.

Public
hearing

(4) The Municipal Board shall conduct a public hearing of every such appeal upon such notice as it considers proper, and

may dismiss the appeal or may by order require the Metropolitan Council to pass the by-law mentioned in subsection 3, and the decision of the Municipal Board on such appeal is final. 1966, c. 96, s. 12, *part*.

139.—(1) At the request of the School Board, an application may be made by the Metropolitan Council to the Municipal Board for approval by the Municipal Board of expenditures and the borrowing of money and the issuing of debentures for the undertaking of any permanent improvements as defined in paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act* or in subsection 4 of section 137 of this Act without specifying particular sites and projects, and the Municipal Board may dismiss the application or may approve part or all thereof, provided that no board of education in the Metropolitan Area shall make any commitment for the acquisition of a site or the undertaking of a project to be financed under an order of the Municipal Board made on such an application until the School Board has approved the cost of such acquisition or undertaking and the treasurer of the Metropolitan Corporation has certified that funds can be provided under such order in payment thereof.

Application
to O.M.B.

R.S.O. 1970,
c. 424

(2) In any order made under this section, the Municipal Board may impose such terms and conditions as it may see fit and may permit preliminary expenditures by a board of education in the Metropolitan Area, including expenditures for the preparation of surveys, architects' plans, appraisals and other expenditures that may be necessary for the calling of tenders, prior to the approval of the School Board and the certificate of the treasurer referred to in subsection 1.

Order

(3) The approval of the Municipal Board provided for in this section shall be deemed to be the approval of the Municipal Board required by section 64 of *The Ontario Municipal Board Act* and sections 137 and 138 of this Act for any site acquired or project carried out under and in accordance with such order. 1966, c. 96, s. 12, *part*.

Approval

R.S.O. 1970,
c. 323

140.—(1) If it appears to the School Board that the erection of a school for pupils from more than one school section or secondary school district in the Metropolitan Area is or will be desirable, the School Board may acquire land for the school site by purchase or otherwise or by expropriation.

Acquisition
of school
sites by
School
Board

(2) The Metropolitan Council may borrow money at the request of the School Board for the purpose of acquiring land under subsection 1, and the School Board shall pay the interest charges on the amount borrowed as they fall due and shall repay the principal sum within five years from the date it was made available to it.

Borrowing

Transfer to
board of
education

(3) Upon being reimbursed for all expenses, including interest charges on money borrowed under subsection 2, actually incurred in acquiring and holding the land less any revenue received therefrom, the School Board may convey the land to a board of education having jurisdiction in one of the school sections or secondary school districts from which pupils will attend the school when erected.

Disposition

(4) The School Board may sell land acquired under subsection 1 if it appears to the School Board that such land will not be required for the erection of a school and may lease or rent such land at any time if it appears to the School Board that it is not immediately so required. 1966, c. 96, s. 12, *part*.

Certain
school
boards
and districts
exempted

141.—(1) Nothing in this Act affects any public school board or public school section within the Metropolitan Area heretofore or hereafter established by the Minister under section 12 of *The Public Schools Act* or any secondary board or secondary school district within the Metropolitan Area hereafter established by the Minister under subsection 1 of section 4 of *The Secondary Schools and Boards of Education Act*.

R.S.O. 1970,
cc. 385, 425

Application
of R.S.O.
1970, c. 455

(2) The School Board shall be deemed to be a board within the meaning of *The Teachers' Superannuation Act*. 1966, c. 96, s. 12, *part*.

Admission
of non-
resident
pupils

142.—(1) A board of education in the Metropolitan Area shall not admit to a secondary school operated by it any pupil who is not a resident pupil without prior approval of the School Board.

Rights of
wards of
Children's
Aid Society
to attend
school

(2) Where a child,

- (a) who is a ward in the care of The Metropolitan Toronto Children's Aid Society or whose mother is his sole support; and
- (b) who has the right to attend a public or secondary school in an area municipality without payment of a fee,

resides in the Metropolitan Area, he has the same right to attend a school without payment of a fee as he would have if his residence was that of his parents or guardians, and, if he does so attend, he shall be deemed for all purposes to be a resident pupil of the school section or secondary school district in which he resides. 1966, c. 96, s. 12, *part*.

Rights of
wards of
Catholic
Children's
Aid Society

(3) Where a child,

- (a) who is a ward in the care of The Metropolitan Toronto Catholic Children's Aid Society or whose mother is his sole support; and
- (b) who has the right to attend a secondary school in an area municipality without payment of a fee,

resides in the Metropolitan Area, he has the same right to attend a secondary school without payment of a fee as he would have if his residence was that of his parents or guardians, and, if he does so attend, he shall be deemed for all purposes to be a resident pupil of the secondary school district in which he resides. 1968, c. 80, s. 10.

143.—(1) The council of any area municipality may grant aid to the board of education for the area municipality to pay in whole or in part for the construction by the board of education of indoor or outdoor swimming pools on the property of the board of education. Swimming pools on school property

(2) An area municipality and the board of education thereof may enter into agreements with respect to the construction, control, operation, maintenance and repair of such swimming pools and with respect to the operation and use of such swimming pools, except during school hours, by the area municipality. Agreements

(3) The council of an area municipality may charge fees for the use of or admission to such swimming pools while the operation and use of the pools is under the control of the area municipality. Fees

(4) The Metropolitan Corporation may issue debentures for the purposes of any undertaking under this section. 1966, c. 96, s. 12, *part*. Debentures

144. Insurance placed by a board of education on its property shall be deemed to have been placed on its own behalf and on behalf of the School Board, and any proceeds of such insurance shall Insurance on school property

(a) if requested by the School Board, be paid to the School Board; and

(b) be used in the manner provided in subsection 3 of section 135. 1966, c. 96, s. 12, *part*.

PART IX

REGIONAL LIBRARY BOARD

145. In this Part, Interpretation

(a) “area board” means a public library board established for an area municipality;

(b) “Library Board” means the Metropolitan Toronto Library Board. 1966, c. 96, s. 13, *part*.

146.—(1) The regional library board, which is a corporation, under the name of “Metropolitan Toronto Library Board”, is continued and shall be composed of, Metropolitan Toronto Library Board

- (a) one person appointed by the council of each area municipality who shall be a resident in the area municipality and who may be a member of a public library board;
- (b) the chairman of the Metropolitan Council;
- (c) one person appointed by The Metropolitan Toronto School Board who shall be a resident in the Metropolitan Area; and
- (d) one person appointed by the Metropolitan Separate School Board who shall be a resident in the Metropolitan Area. 1966, c. 96, s. 13, *part, amended*.

Time of
appointment

(2) Appointments of members of the Library Board shall be made in the month of January, 1967, and in the month of January in every third year thereafter.

Term of
office

(3) The appointed members of the Library Board shall hold office for a three-year term and until their successors are appointed.

Vacancies

(4) Vacancies arising from any cause shall be filled forthwith by the appointing body, and the person appointed to fill the vacancy shall hold office for the unexpired term of the person whose place has become vacant.

Chairman
may appoint
delegate

(5) The chairman of the Metropolitan Council may designate any member of the Metropolitan Council to be his delegate at any or all of the meetings of the Library Board.

Chairman
and quorum

(6) The Library Board, from among its members, shall elect a chairman and may elect a vice-chairman, and a majority of the members of the Library Board constitutes a quorum.

Powers of
Library
Board
R.S.O. 1970
c. 381

(7) Except as otherwise provided in this Act, the Library Board with respect to the Metropolitan Area shall be deemed to be a board of a regional library system under *The Public Libraries Act* and may make grants in aid of capital or current expenditures to any area board for the provision of central or regional reference library services.

Finances

(8) The Library Board shall submit annually to the Metropolitan Council an estimate of its financial requirements for the year, and the Metropolitan Council may amend such estimate and shall pay to the Library Board out of the moneys appropriated for the Library Board such amounts as may be requisitioned from time to time.

Power to
acquire
land

(9) The Library Board may,

- (a) with the approval of the Metropolitan Council, acquire by purchase, lease or otherwise any land required for its

purposes and sell, lease or otherwise dispose of any land or buildings when no longer required for its purposes; and

- (b) erect, maintain and repair buildings on its lands and make additions to or alterations of such buildings.

(10) The power of the Metropolitan Corporation to acquire land for the purposes of the Metropolitan Corporation includes the power to acquire land for the purposes of the Library Board.

Power of Metro-
politan
Corporation
Power
to acquire
land

(11) All claims, actions and demands arising from or relating to the operations of the Library Board or the exercise of any of its powers shall be made upon and brought against the Library Board and not upon or against the Metropolitan Corporation.

Actions
etc., against
Library
Board

(12) The Library Board may sue and be sued in its own name. 1966, c. 96, s. 13, *part.*

Idem

147.—(1) At the request of the Library Board, the Metropolitan Council may, after the 1st day of January, 1967, pass by-laws assuming on behalf of the Library Board any land or building that the Library Board requires for its purposes that is vested on the 31st day of March, 1966, in any area municipality or area board and that is used on such day for public library purposes, and on the day any such by-law becomes effective the property designated therein vests in the Library Board.

Assumption
of lands and
buildings

(2) No area municipality or area board, after the 31st day of March, 1966, shall, without the consent of the Metropolitan Council until the Library Board is organized and thereafter without the consent of the Library Board, sell, lease or otherwise dispose of or encumber any land or building that is used for public library purposes.

Sale by
area muni-
cipality or
area board
limited

(3) Where any part of a building mentioned in subsection 1 is used by the area municipality or area board for purposes other than those for which the Library Board was established, the Metropolitan Council may, at the request of the Library Board,

Buildings
used for
other
purposes

- (a) where practicable, assume on behalf of the Library Board only the part of the building and land appurtenant thereto used for purposes similar to those for which the Library Board was established; or

- (b) assume on behalf of the Library Board the whole building and land appurtenant thereto, and the Library Board may enter into an agreement with the area municipality or area board for the use of a part of the land or building by such area municipality or area board on such terms and conditions as may be agreed upon.

Liability of
Metro-
politan
Corporation

(4) Where the Metropolitan Corporation assumes any property under subsection 1 or 3,

- (a) no compensation or damage shall be payable to the area municipality or area board except as provided in this subsection;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due thereafter upon any outstanding debentures issued by the area municipality in respect of any property vested in the Library Board under subsection 1 or 3;
- (c) notwithstanding any order of the Municipal Board or any debenture by-law passed pursuant thereto, all amounts of principal and interest becoming due thereafter with respect to any debentures theretofore issued by the Metropolitan Corporation on behalf of such area municipality in respect of any property vested in the Library Board under subsection 1 or 3 shall be repaid by levies against all the area municipalities;
- (d) the Metropolitan Corporation shall thereafter pay to the area municipality or area board, for the portion of any land or building vested in the Library Board under this section that is not used, on the 31st day of March, 1966, for purposes similar to those for which the Library Board was established, such amount as may be agreed upon, and, failing agreement, the Municipal Board, upon application, may determine the amount, and its decision is final, provided that such amount shall not be greater than the capital expenditure for such portion of the land or building less the amount of any outstanding debentures in respect of such portion.

Default

(5) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 4, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Transfer of
personal
property

(6) At the request of the Library Board, each area municipality or area board shall transfer to the Library Board for its use without compensation all personal property, including books, periodicals, newspapers, manuscripts, pictures, films, recordings and catalogues in the possession of the area municipality or area board at any time during the period between the 31st day of March, 1966, and the 1st day of January, 1968, that was provided for purposes similar to those for which the Library Board was established.

(7) No area municipality or area board during the period referred to in subsection 6 shall, without the consent of the Metropolitan Council until the Library Board is organized and thereafter without the consent of the Library Board, dispose of any personal property referred to in subsection 6.

Disposal of
personal
property
limited

(8) In the event of any doubt as to whether,

Settling of
doubts

- (a) any outstanding debenture or portion thereof was issued in respect of any property assumed; or
- (b) any personal property referred to in subsection 6 was used for purposes similar to those for which the Library Board was established,

the Municipal Board, upon application, may determine the matter and its decision is final. 1966, c. 96, s. 13, *part*.

PART X

AREA MUNICIPALITIES

148.—(1) On the 1st day of January, 1967,

Area muni-
cipalities,
formed or
continued

- (a) the Township of East York and the Town of Leaside are amalgamated as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of East York;
- (b) the Township of Etobicoke, the Village of Long Branch, the Town of Mimico and the Town of New Toronto are amalgamated as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of Etobicoke;
- (c) the Township of North York is continued as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of North York;
- (d) the Township of Scarborough is continued as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of Scarborough;
- (e) the City of Toronto, the Village of Forest Hill and the Village of Swansea are amalgamated as a city municipality the inhabitants of which are a body corporate under the name of The Corporation of the City of Toronto;
- (f) the Township of York and the Town of Weston are amalgamated as a township municipality the inhabitants of which are a body corporate under the name of The Corporation of the Borough of York.

Amalgama-
tions deemed
by orders
of O.M.B.
R.S.O. 1970,
c. 323

(2) For the purposes of every Act, the municipalities amalgamated by this section shall be deemed to have been amalgamated by orders of the Municipal Board, not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of such Act, made on the 18th day of May, 1966 pursuant to applications made under section 14 of *The Municipal Act*, and, subject to the provisions of this Act, the Municipal Board, upon the application of any area municipality or local board thereof or of its own motion, may exercise its powers consequent upon such amalgamations, and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers.

R.S.O. 1960,
c. 249

Application
of special
Acts

(3) The provisions of any special Act, in so far as they are not inconsistent with any of the provisions of this Act, relating to the City of Toronto, the Township of East York, the Township of Etobicoke or the Township of York shall apply to the whole of the new city or borough formed under subsection 1 of which it forms a part.

Idem

(4) The provisions of any special Act, in so far as they are not inconsistent with any of the provisions of this Act, relating to,

- (a) the Village of Forest Hill or the Village of Swansea, shall continue to apply to the part of the City of Toronto formerly in the Village of Forest Hill or the Village of Swansea except where they are in conflict with any special Act relating to the City of Toronto;
- (b) the Town of Leaside, shall continue to apply in the part of the Borough of East York formerly in the Town of Leaside except where they are in conflict with any special Act relating to the Township of East York;
- (c) the Town of Mimico, the Town of New Toronto or the Village of Long Branch, shall continue to apply in the part of the Borough of Etobicoke formerly in the Town of Mimico, the Town of New Toronto or the Village of Long Branch except where they are in conflict with any special Act relating to the Township of Etobicoke;
- (d) the Town of Weston, shall continue to apply in the part of the Borough of York formerly in the Town of Weston except where they are in conflict with any special Act relating to the Township of York.

Provisions
respecting
council
repealed

(5) Notwithstanding subsections 1 and 2, on the 1st day of January, 1967, the provisions of any special Act respecting the composition of council relating to any area municipality are repealed. 1966, c. 96, s. 14, *part*.

149.—(1) On and after the 1st day of January, 1967, the council of each area municipality shall be composed of, Council,
composition

- (a) a mayor elected by general vote who shall be the head of council; and
- (b) a board of control, if at any time the area municipality has such a board; and
- (c) aldermen as follows:
 - (i) if elected by general vote, not fewer than four aldermen, or
 - (ii) if elected by wards and the area municipality has four or more wards, one, two or three aldermen for each ward, or, if the area municipality has fewer than four wards, two or three aldermen for each ward.

(2) The Borough of East York shall be deemed to have a population of not less than 100,000 for the purposes of section 204 of *The Municipal Act*. 1966, c. 96, s. 14, *part*. East York
board of
control
R.S.O. 1970,
c. 284

(3) The council of any area municipality, may pass by-laws providing for the composition of its council in accordance with subsection 1. 1966, c. 96, s. 14, *part, amended*. Power to
pass by-laws

(4) A by-law under this section, and a by-law amending or repealing any such by-law, shall be passed not later than the 1st day of November in the year in which an election is to be held and shall not be passed unless it has received the approval of the Municipal Board. Time for
passing,
approval
of O.M.B.

(5) Every such by-law, including an amending or repealing by-law, shall take effect at and for the purposes of the triennial election next after its passing. 1966, c. 96, s. 14, *part*. Effective
date

PART XI

HEALTH AND WELFARE SERVICES

150.—(1) In this section, “public welfare purposes” includes any purpose in respect of which any obligation is imposed or power is conferred on the Metropolitan Corporation in relation to matters referred to in this Part. Interpre-
tation

(2) The Metropolitan Council may pass by-laws, which shall not become effective before the 1st day of January, 1967, assuming any land or building that it requires for public welfare purposes that is vested on the 31st day of March, 1966, in any area municipality and that is used on such day primarily for public welfare purposes, and on the day any such by-law becomes effective the property designated therein vests in the Metropolitan Corporation. Assumption
of lands and
buildings for
public
welfare
purposes

Sale by
area muni-
cipality
limited

(3) No area municipality, after the 31st day of March, 1966, and before the 1st day of January, 1967, shall without the consent of the Metropolitan Council sell, lease or otherwise dispose of or encumber any land or building that is used primarily for public welfare purposes.

Buildings
used for
other
purposes

(4) Where any part of a building mentioned in subsection 2 is used by the area municipality or a local board thereof for purposes other than public welfare purposes, the Metropolitan Council may,

- (a) where practicable, assume only the part of the building and land appurtenant thereto used for public welfare purposes; or
- (b) assume the whole building and land appurtenant thereto, and enter into an agreement with the area municipality or a local board thereof for the use of a part of the land or building by such area municipality or local board on such terms and conditions as may be agreed upon.

Liability of
Metro-
politan
Corporation

(5) Where the Metropolitan Corporation assumes any property under subsection 2 or 4,

- (a) no compensation or damage shall be payable to the area municipality except as provided in this subsection;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due thereafter upon any outstanding debentures issued by the area municipality in respect of any property vested in the Metropolitan Corporation under subsection 2 or 4;
- (c) notwithstanding any order of the Municipal Board or any debenture by-law passed pursuant thereto, all amounts of principal and interest becoming due thereafter with respect to any debentures theretofore issued by the Metropolitan Corporation on behalf of such area municipality in respect of any property vested in the Metropolitan Corporation under subsection 2 or 4 shall be repaid by levies against all the area municipalities;
- (d) the Metropolitan Corporation shall thereafter pay to the area municipality for the portion of any land or building vested in the Metropolitan Corporation under this section that is not used, on the 31st day of March, 1966, for public welfare purposes such amount as may be agreed upon, and, failing agreement, the Municipal Board, upon application, may determine the amount, and its decision is final, provided that such amount shall

not be greater than the capital expenditure for such portion of the land or building less the amount of any outstanding debentures in respect of such portion.

(6) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. Default

(7) Where a building vested in an area municipality or local board is used partly for public welfare purposes and is not vested in the Metropolitan Corporation under this section, the area municipality or local board at the request of the Metropolitan Council shall provide, at such rental as may be agreed upon, at least as much accommodation in such building for the use of the Metropolitan Corporation as was being provided by the area municipality for public welfare purposes on the 31st day of March, 1966. Accommodation

(8) At the request of the Metropolitan Council, each area municipality, for the use of the Metropolitan Corporation, Transfer of personal property

(a) shall transfer to the Metropolitan Corporation without compensation all office supplies and stationery in the possession of the area municipality on the 31st day of December, 1966, that was provided exclusively for public welfare purposes; and

(b) shall transfer to the Metropolitan Corporation without compensation all personal property with the exception of office supplies and stationery in the possession of the area municipality on the 31st day of March, 1966, or thereafter that was provided exclusively for public welfare purposes.

(9) No area municipality, without the consent of the Metropolitan Council, shall dispose of any personal property referred to in clause *b* of subsection 8. Disposal of personal property

(10) In the event of any doubt as to whether, Settling of doubts

(a) any outstanding debenture or portion thereof was issued in respect of any property assumed; or

(b) any land or building referred to in subsection 2 was used primarily for public welfare purposes,

the Municipal Board, upon application, may determine the matter and its decision is final. 1966, c. 96, s. 15, *part*.

Liability of
Metro-
politan
Corporation
under
R.S.O. 1970,
cc. 21, 103, 203,
270, 490

151. For the purposes of the following Acts, the Metropolitan Corporation shall be deemed to be a city and no area municipality shall be deemed to be a municipality:

The Anatomy Act,
The Day Nurseries Act,
The Homemakers and Nurses Services Act,
The Mental Hospitals Act,
The War Veterans Burial Act. 1966, c. 96, s. 15, *part*; 1967, c. 58, s. 7.

Liability
for hospital-
ization of
indigents
R.S.O. 1970,
c. 378

152. The Metropolitan Corporation shall be deemed to be a city for all the purposes of the provisions of *The Public Hospitals Act* respecting the hospitalization and burial of indigent persons and their dependants, and no area municipality has any liability under such provisions. 1966, c. 96, s. 15, *part*.

Existing
liabilities
transferred

153.—(1) The Corporation of the County of York is not liable, and the Metropolitan Corporation is liable, for the hospitalization or burial, after the 31st day of December, 1953, of an indigent person or his dependant who was in hospital on the 31st day of December, 1953, and in respect of whom the County was liable because the indigent person was a resident of an area municipality.

Idem

(2) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, for the hospitalization or burial, after the 31st day of December, 1953, of an indigent person or his dependant who was in hospital on the 31st day of December, 1953, and in respect of whom the City was liable because the indigent person was a resident of the City.

Proviso

(3) Nothing in subsection 1 or 2 relieves the County or the City from any liability in respect of hospitalization provided or burials before the 1st day of January, 1954.

Special
provisions

(4) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, after the 31st day of December, 1953, for the hospitalization and burial of an indigent person or his dependant who was in hospital on the 31st day of December, 1953, or who is admitted to hospital after such date and in respect of whom the City is or would be liable under the provisions of an agreement dated the 21st day of February, 1947, made between the City, The Corporation of the Township of Toronto, The Corporation of the Township of Toronto Gore and The Corporation of the County of Peel which agreement was validated and confirmed by *The City of Toronto Act, 1947*, and nothing in this subsection relieves the City from any liability in respect of hospitalization provided or burials before the 1st day of January, 1954. R.S.O. 1960, c. 260, s. 155.

1947, c. 142

154. The Metropolitan Council may pass by-laws for granting aid for the erection, establishment, maintenance or equipment of public hospitals, including municipal hospitals, public sanatoria or municipal isolation hospitals in the Metropolitan Area and may issue debentures therefor. R.S.O. 1960, c. 260, s. 156.

Aid to hospitals

155.—(1) The Metropolitan Corporation shall repay to the local board of health of each area municipality the expenses necessarily incurred by the local board for post-sanatorium care furnished after the 31st day of December, 1953, in discharge of its liability under subsection 2 of section 37 of *The Sanatoria for Consumptives Act*. R.S.O. 1960, c. 260, s. 157 (1).

Post-sanatorium care

R.S.O. 1970, c. 422

(2) Payment under subsection 1 shall be made quarterly by the Metropolitan Corporation upon receipt of detailed accounts in respect of the quarter, together with such information as the Metropolitan Council may require.

Time for payment

(3) For the purposes of Part IV, except subsection 1 of section 37, of *The Sanatoria for Consumptives Act*, the Metropolitan Corporation shall be deemed to be a local municipality and no area municipality shall be deemed to be a local municipality. 1966, c. 96, s. 16.

Liability of Metropolitan Corporation under R.S.O. 1970, c. 422 Part IV

(4) The Metropolitan Corporation may pay to the local board of health of any area municipality the whole or any part of the cost incurred by such local board for dairy farm inspections made after the 31st day of December, 1960. 1960-61, c. 61, s. 7.

Dairy farm inspections

156.—(1) Subject to *The Public Hospitals Act*, the Metropolitan Corporation may establish, erect, equip, maintain and operate a public hospital and shall be deemed to be a city for the purposes of establishing, erecting and maintaining an isolation hospital under *The Public Health Act*.

Public and isolation hospitals

R.S.O. 1970, cc. 378, 377

(2) For such purposes, the Riverdale Isolation Hospital established, erected and maintained by The Corporation of the City of Toronto under *The Public Health Act* and the nurses' residence used in connection therewith and all real and personal property used for the purposes of such hospital and nurses' residence are vested in the Metropolitan Corporation and no compensation shall be paid to the City in respect thereof. R.S.O. 1960, c. 260, s. 158.

Transfer of Riverdale Isolation Hospital

157.—(1) The Metropolitan Corporation shall be deemed to be a city for the purposes of *The Homes for the Aged and Rest Homes Act*, and no area municipality has any liability as to the establishment, erection and maintenance of a home for the aged under that Act. R.S.O. 1960, c. 260, s. 159 (1), *amended*.

Liability respecting home for aged and rest homes R.S.O. 1970, c. 206

Admission
to home
for aged
and rest
homes

(2) Section 16 of *The Homes for the Aged and Rest Homes Act* applies in respect of applicants for admission to a home for the aged of the Metropolitan Corporation except that,

- (a) the authorization in the prescribed form referred to in clause *e* of that section shall be signed by the chairman or by such other person or persons as may be designated by resolution of the Metropolitan Council;
- (b) the statement in the prescribed form referred to in clause *h* of that section shall be signed by the welfare officer of the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 159 (2); 1960-61, c. 61, s. 8; 1966, c. 96, s. 17, *amended*.

Liability
respecting
indigent
persons
awaiting
admittance
to home
for the aged
and rest
homes
R.S.O. 1970,
c. 206

158. The Metropolitan Corporation is liable for the maintenance of indigent persons in nursing homes awaiting accommodation in a home for the aged of the Metropolitan Corporation from the day admission to such home for the aged has been authorized under clause *e* of section 16 of *The Homes for the Aged and Rest Homes Act*. R.S.O. 1960, c. 260, s. 160, *amended*.

Location
of home
for aged

159. A home for the aged of the Metropolitan Corporation may be established, erected and maintained either within or outside the Metropolitan Area. R.S.O. 1960, c. 260, s. 161.

Toronto
home for
aged vested
in Metro-
politan
Corporation
1955, c. 30

160.—(1) The home for the aged established, erected or maintained under *The Homes for the Aged Act, 1955* by The Corporation of the City of Toronto, and all real and personal property used for the purposes of such home, is vested in the Metropolitan Corporation and, subject to subsection 2, no compensation or damages shall be payable to the City in respect thereof.

Existing
debenture
liability

(2) The Metropolitan Corporation shall pay to The Corporation of the City of Toronto before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the City for the purposes of such home for the aged.

Default

(3) If the Metropolitan Corporation fails to make any payment as required by subsection 2, the City may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Settling
of doubts

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued for the purposes of such home for the aged, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1960, c. 26, s. 162 (1-4).

(5) If the Minister of Social and Family Services certifies that Lambert Lodge in the City of Toronto is no longer required by the Metropolitan Corporation for use as a home for the aged, the Metropolitan Corporation shall thereupon transfer that portion of the real property known as Lambert Lodge that was used for the purposes of a home for the aged and was vested in the Metropolitan Corporation by subsection 1 to The Corporation of the City of Toronto, and no compensation or damages shall be payable to the Metropolitan Corporation in respect thereof. R.S.O. 1960, c. 260, s. 162 (5), *amended*.

Lambert
Lodge

161.—(1) The Metropolitan Corporation shall pay to The Corporation of the County of York the cost of maintenance in the County home for the aged, after the 31st day of December, 1953, of every resident of that home who was admitted thereto due to residence in an area municipality.

Residents
of County
home for
aged

(2) The amount payable by the Metropolitan Corporation under subsection 1 shall be such as may be agreed upon or, failing agreement, as may be determined by the Municipal Board. R.S.O. 1960, c. 260, s. 163.

Amount of
maintenance
payment

162. The Metropolitan Corporation shall be deemed to be a city for the purposes of subsection 2 of section 45 of *The Child Welfare Act*, and no area municipality shall be deemed to be a municipality for the purposes of such Act. 1966, c. 96, s. 18.

Liability of
Metro-
politan
Corporation
under
R.S.C. 1970,
c. 64

163. For the purposes of subsection 2 of section 20 of the *Juvenile Delinquents Act* (Canada), the Metropolitan Corporation shall be deemed to be a municipality and no area municipality shall be deemed to be a municipality. 1966, c. 96, s. 19.

Liability of
Metro-
politan
Corporation
under
R.S.C. 1952,
c. 160

164.—(1) The Corporation of the County of York is not liable, and the Metropolitan Corporation is liable, for the maintenance of a neglected child in respect of whom an order for maintenance was in force against the County on the 31st day of December, 1953, where the order was made because the child belonged to the County due to residence in an area municipality.

Existing
liabilities
transferred

(2) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, for the maintenance of a neglected child in respect of whom an order for maintenance was in force against the City on the 31st day of December, 1953.

Idem

(3) Nothing in subsections 1 and 2 relieves the County or City from any liability in respect of maintenance provided before the 1st day of January, 1954.

Proviso

Special
provisions

(4) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, after the 31st day of December, 1953, for the maintenance of children committed temporarily or permanently to the care and custody of a children's aid society in respect of which child an order for maintenance was in force on the 31st day of December, 1953, or is made after such date and in respect of which maintenance the City is or would be liable under the provisions of an agreement dated the 21st day of February, 1947, made between the City, The Corporation of the Township of Toronto, The Corporation of the Township of Toronto Gore and The Corporation of the County of Peel which agreement was validated and confirmed by *The City of Toronto Act, 1947*, and nothing in this subsection relieves the City from any liability in respect of maintenance provided before the 1st day of January, 1954. R.S.O. 1960, c. 260, s. 165.

1947, c. 142

Liability of
Metro-
politan
Corporation
under
R.S.O. 1970,
c. 192

165. For the purposes of *The General Welfare Assistance Act*, the Metropolitan Corporation shall be deemed to be a city and no area municipality shall be deemed to be a municipality for the purposes of such Act, except section 5 thereof. 1966, c. 96, s. 20.

Special
welfare
assistance

166. The Metropolitan Council may pass by-laws to provide money for the health and welfare of the resident poor not otherwise specifically provided for in this Act. 1967, c. 58, s. 8.

Area muni-
cipalities
not liable
under
R.S.O. 1970,
c. 467

167. No area municipality shall be deemed to be a municipality for the purposes of *The Training Schools Act*. 1966, c. 96, s. 21.

Existing
liabilities
transferred

168.—(1) The Corporation of the County of York is not liable, and the Metropolitan Corporation is liable, for payment under *The Training Schools Act* towards the maintenance and education of a child in respect of whom the County was liable on the 31st day of December, 1953, due to residence in an area municipality.

Idem

(2) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, for payment under *The Training Schools Act* towards the maintenance and education of a child in respect of whom the City was liable on the 31st day of December, 1953, due to residence in the City.

Proviso

(3) Nothing in subsections 1 and 2 relieves the County or the City from any liability in respect of maintenance and education provided before the 1st day of January, 1954.

Special
provisions

(4) The Corporation of the City of Toronto is not liable, and the Metropolitan Corporation is liable, after the 31st day of December, 1953, for payment under *The Training Schools Act* towards the maintenance and education of a child in respect of whom the City is or would be liable under the provisions of an

agreement dated the 21st day of February, 1947, made between the City, The Corporation of the Township of Toronto, The Corporation of the Township of Toronto Gore and The Corporation of the County of Peel which agreement was validated and confirmed by *The City of Toronto Act, 1947*, and nothing in this subsection relieves the City from any liability in respect of maintenance and education provided before the 1st day of January, 1954. R.S.O. 1960, c. 260, s. 169. 1947, c. 142

169. Every area municipality and every officer or employee thereof shall, at the request of the welfare officer of the Metropolitan Corporation, furnish forthwith to such officer any information he may require for public welfare purposes as defined in subsection 1 of section 150. 1966, c. 96, s. 23. Information

170. In the event of any doubt as to whether any liability is transferred under section 153, 164 or 168 or as to whether the Metropolitan Corporation is liable under subsection 1 of section 161 in respect of any particular resident of the County home for the aged, the matter may be settled by agreement between the municipalities concerned or, failing agreement, may be determined by the Municipal Board. R.S.O. 1960, c. 260, s. 171; 1966, c. 96, s. 24. Adjustments

171. The Metropolitan Council may acquire the lands and premises known as 186-194 Beverley Street in the City of Toronto for the use of the Metropolitan Toronto Association for Retarded Children and may lease such lands and premises to the Association for a nominal amount for such term and under such conditions as the Metropolitan Council may determine. R.S.O. 1960, c. 260, s. 172. Acquisition of land for Association for Retarded Children

172. The Metropolitan Corporation may assume and pay 50 per cent of the annual operating deficit of Regent Park South Nursery School for the year 1963 and subsequent years. 1962-63, c. 89, s. 10. Regent Park South Nursery School operating deficits

173.—(1) The Metropolitan Council may,

- (a) acquire, maintain and operate ambulances for the conveyance of persons requiring medical attention to a hospital or other place, and fix and charge fees therefor;
- (b) enter into an agreement with any person for a period not exceeding five years to maintain and operate ambulances for the purpose of conveying persons requiring medical attention to a hospital or other place at such rates or charges and on such other terms and conditions, including the payment of an annual subsidy to such person, as may be agreed upon;

Ambulance services

- (c) establish, maintain and operate a central ambulance dispatching system for the Metropolitan Area, and enter into an agreement with any person for a period not exceeding five years for such purposes on such terms and conditions as may be agreed upon;
- (d) provide for payment by the Metropolitan Corporation to owners of ambulances of charges for making calls as directed through such central ambulance dispatching system and provide for the recovery of such charges by the Metropolitan Corporation.

Powers of
area muni-
cipalities
R.S.O. 1970,
c. 377

(2) On and after the 1st day of January, 1967, no area municipality or local board of health thereof shall exercise any of its powers under section 30 of *The Public Health Act* without the consent of the Metropolitan Council.

Assumption
of
ambulances

(3) The Metropolitan Council shall, before the 1st day of January, 1967, pass by-laws, which shall be effective on the 1st day of January, 1967, assuming for the use of the Metropolitan Corporation any ambulance and any personal property used in connection therewith that the Metropolitan Corporation may require for the purposes of subsection 1 that is vested on the 31st day of March, 1966, in any area municipality or local board of health thereof, and on the day any such by-law becomes effective the property designated therein vests in the Metropolitan Corporation and no compensation or damage shall be payable in respect of such property.

Sale by
area muni-
cipalities
limited

(4) No area municipality and no local board of health thereof, after the 31st day of March, 1966, and before the 1st day of January, 1967, shall without the consent of the Metropolitan Council sell, lease or otherwise dispose of or encumber any property mentioned in subsection 3.

Extension
of time

(5) Notwithstanding subsection 3, a by-law for assuming any property under subsection 3, with the approval of the Municipal Board, may be passed after the 1st day of January, 1967, and in that case the by-law shall become effective on the date provided therein.

Assumption
of
agreements

(6) On the 1st day of January, 1967, the Metropolitan Corporation shall assume and become liable for the obligations and entitled to the benefits,

- (a) of any area municipality under any agreement entered into pursuant to paragraph 88c of subsection 1 of section 379 of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960; and
- (b) of any local board of health of an area municipality under any agreement entered into pursuant to section 30 of *The Public Health Act*,

and no area municipality or local board of health thereof, after the 31st day of March, 1966, shall without the consent of the Metropolitan Council enter into any such agreement. 1966, c. 96, s. 26.

PART XII

METROPOLITAN POLICE

174. In this Part, "Metropolitan Board" means Metropolitan Board of Commissioners of Police for the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 193.

Interpretation

175.—(1) The Metropolitan Corporation shall be deemed to be a city for the purposes of The Police Act.

Metropolitan Toronto deemed city for R.S.O. 1970, c. 351

(2) *The Police Act* does not apply to any area municipality. R.S.O. 1960, c. 260, s. 194 (1, 2).

R.S.O. 1970, c. 351 not to apply to area municipalities

176. All boards of commissioners of police of area municipalities are dissolved. R.S.O. 1960, c. 260, s. 195.

Boards of area municipalities dissolved

177.—(1) The Board of Commissioners of Police for the Metropolitan Corporation shall be known as Metropolitan Board of Commissioners of Police and shall be composed of,

Composition of Metropolitan Board

- (a) the chairman of the Metropolitan Council;
- (b) one member of the Metropolitan Council appointed by the Metropolitan Council;
- (c) a judge of the county court of the Judicial District of York designated by the Lieutenant Governor in Council;
- (d) one provincial judge under *The Provincial Courts Act* designated by the Lieutenant Governor in Council; and
- (e) one person, who is not qualified to be appointed or designated under clause *b*, *c* or *d*, appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 260, s. 196 (1); 1968, c. 80, s. 12; 1968-69, c. 77, s. 10.

R.S.O. 1970, c. 369

(2) The Metropolitan Board may pass by-laws under paragraph 3 of section 386 of *The Municipal Act*. R.S.O. 1960, c. 260, s. 196 (2).

Specific powers R.S.O. 1970, c. 284

178. The Metropolitan Corporation shall provide for the payment of a reasonable remuneration, not being less than the minimum prescribed by the regulations under *The Police Act*, to the members of the Metropolitan Board who are not members of the Metropolitan Council and no remuneration shall be paid to

Remuneration

the members who are members of the Metropolitan Council. R.S.O. 1960, c. 260, s. 197; 1968, c. 80, s. 13.

Accommodation and equipment

179. The Metropolitan Corporation shall provide all real and personal property necessary for the purposes of the Metropolitan Board. R.S.O. 1960, c. 260, s. 198.

Regulations of dissolved boards continue in force
R.S.O. 1970, c. 351

180. All regulations under *The Police Act* made by the boards of commissioners of police dissolved under section 176 that are in force immediately before the 1st day of January, 1957, shall continue in force and effect and apply to the members of the Metropolitan Police Force until repealed by the Metropolitan Board. R.S.O. 1960, c. 260, s. 199.

Members of area municipality police force transferred to Metropolitan Board

181.—(1) Every person who is a member of a police force in an area municipality, including any chief constable, constable, police officer and assistant, on the 15th day of March, 1956, and is continuously so employed until immediately before the 1st day of January, 1957, becomes a member of the Metropolitan Police Force on the 1st day of January, 1957, and is subject to the government of the Metropolitan Board to the same extent as if appointed by the Metropolitan Board.

Application of pension provisions to civilian employees

(2) Subsections 3 to 7 of section 24 apply to every person who becomes a member of the Metropolitan Police Force, except a chief constable, constable or other police officer, to the same extent as if such person had been an employee of an area municipality or the board of commissioners of police thereof and thereafter became employed by the Metropolitan Corporation.

Enforcement of by-laws

(3) The Metropolitan Board and the members of the Metropolitan Police Force shall be charged with the same duties with respect to by-laws of the area municipalities as with respect to by-laws of the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 200.

Assumption of buildings

182.—(1) The Metropolitan Council shall, before the 1st day of January, 1957, pass by-laws which shall be effective on the 1st day of January, 1957, assuming for the use of the Metropolitan Board any such land or building that the Metropolitan Board may require that is vested on the 15th day of February, 1956, in any area municipality or local board thereof, and at least 40 per cent of which is used on such date for the purposes of the police force of that area municipality, and on the day any such by-law becomes effective the property designated therein vests in the Metropolitan Corporation.

(2) No area municipality, before the 1st day of January, 1957, shall without the consent of the Metropolitan Board sell, lease or otherwise dispose of or encumber any land or building mentioned in subsection 1.

Sale by
area
municipalities
limited

(3) Notwithstanding subsection 1, a by-law for assuming any land or building mentioned in subsection 1, with the approval of the Municipal Board, may be passed after the 1st day of January, 1957, and in that case the by-law shall become effective on the date provided therein.

Extension
of time

(4) Where any part of a building mentioned in subsection 1 is used by the area municipality or a local board thereof for other than police purposes, the Metropolitan Council may,

Building
not used
exclusively
for police
force

- (a) where practicable assume only the part of the building and land appurtenant thereto used for the purposes of the police force of the area municipality; or
- (b) vest the building and land appurtenant thereto in the Metropolitan Corporation and enter into an agreement with the area municipality or local board thereof for the use of a part of the building by the area municipality or local board on such terms and conditions as may be agreed upon.

(5) Where the Metropolitan Corporation assumes any property under subsection 1 or 3,

Metropolitan
Corporation
liability

- (a) no compensation or damage shall be payable to the area municipality or local board except as provided in this subsection;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of any property vested in the Metropolitan Corporation;
- (c) the Metropolitan Corporation shall thereafter pay to the area municipality for the portion of any land or building vested in the Metropolitan Corporation under this section that is not used for police purposes on the 15th day of February, 1956, such amount as may be agreed upon and failing agreement the Municipal Board, upon application, may determine the amount, and its decision is final, provided such amount shall not be greater than the capital expenditure for such portion of such land or building less the amount of any outstanding debentures in respect of such portion.

(6) If the Metropolitan Corporation fails to make any payment as required by clause b of subsection 5, the area municipality may charge the Metropolitan Corporation interest at the rate of

Default

one-half of 1 per cent for each month or fraction thereof that the payment is overdue.

Accommo-
dation

(7) Where a building vested in an area municipality or local board is used partly by the police force of the area municipality and is not vested in the Metropolitan Corporation under this section, the area municipality at the request of the Metropolitan Board shall provide, at such rental as may be agreed upon, at least as much accommodation in such building for the use of the Metropolitan Board as was being provided by the area municipality for its police force on the 15th day of February, 1956.

Office
supplies,
etc.

(8) At the request of the Metropolitan Board, each area municipality, for the use of the Metropolitan Board,

- (a) shall transfer to the Metropolitan Corporation without compensation all office supplies and stationery in the possession of the area municipality on the 31st day of December, 1956, that was provided for the exclusive use of the police force of the area municipality;
- (b) shall transfer to the Metropolitan Corporation without compensation all personal property with the exception of office supplies and stationery in the possession of the area municipality on the 15th day of February, 1956, or thereafter that was provided for the exclusive use of the police force of the area municipality;
- (c) shall make available to the Metropolitan Corporation all personal property the use of which was shared by the police and any department or departments of the area municipality on the 15th day of February, 1956, on the same terms and to the same extent as the police department used the property before the 15th day of February, 1956.

Disposal
of personal
property

(9) No area municipality or board of commissioners of police, without the consent of the Metropolitan Board, shall dispose of any personal property referred to in subsection 8 owned by the area municipality on the 15th day of February, 1956, or thereafter.

Signal
system
transferred

(10) All signal and communication systems owned by any area municipality and used for the purposes of the police force of the area municipality on the 15th day of February, 1956, or thereafter are vested in the Metropolitan Corporation for the use of the Metropolitan Board on the 1st day of January, 1957, and no compensation shall be payable to the area municipality therefor and the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of any such signal or communication system.

(11) In the event of any doubt as to whether,

Settling
of doubts

- (a) any outstanding debenture or portion thereof was issued in respect of any property assumed; or
- (b) any land or building is used at least 40 per cent for the purposes of a police force,

the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1960, c. 260, s. 201.

183.—(1) The Metropolitan Council, on the recommendation of the Metropolitan Board, shall provide such pension plan for the chief of police, constables and other police officers who are members of the Metropolitan Police Force, as the Minister may approve, and may provide for the incorporation of the plan of any area municipality and the Toronto Police Benefit Fund with the plan established under this section, and may provide for the transfer of the interests of such members who were in the service of the police force of an area municipality from the Toronto Police Benefit Fund and from the pension plan of any area municipality to the pension plan established under this section. R.S.O. 1960, c. 260, s. 202 (1), *amended*.

Pensions

(2) The benefits provided in the pension plan established under this section for the services of any member of the Metropolitan Police Force performed on and after the 1st day of January, 1957, shall be on a basis not less favourable with respect to such services than the benefits provided in By-law No. 13273 of The Corporation of the City of Toronto, as amended, respecting the Toronto Police Benefit Fund.

Provisions
not less
favourable
than Toronto
Police
Benefit
Fund

(3) The benefits provided in the pension plan established under this section,

Provisions
for services
with police
force of area
municipality

- (a) with respect to the services performed before the 1st day of January, 1957, of members of the Toronto Police Benefit Fund shall be not less favourable than the benefits provided in the said By-law No. 13273, provided such benefits shall be limited to those purchasable with the assets transferred from the Toronto Police Benefit Fund and the payments to be made by the City of Toronto as provided in subsection 14 and any additional payments agreed to be made by the City of Toronto to the pension plan established under this section; and
- (b) with respect to the services performed before the 1st day of January, 1957, by the chief constable, constables and other police officers of any other area municipality shall be not less favourable than the benefits provided for the chief constable, constables and other police officers under the pension plan of such other area municipality,

provided such benefits shall be limited to those purchasable with the assets transferred from the pension plan of the area municipality, the payments to be made by the area municipality as provided in subsection 14 and any additional payments agreed to be made by the area municipality to the pension plan established under this section.

Accrued
benefits
under area
municipality
pension plan

(4) Every chief constable, constable and other police officer of the police force of an area municipality who has become a member of the Metropolitan Police Force pursuant to subsection 1 of section 181, or his beneficiaries, is entitled on termination of his services with the Metropolitan Police Force to all benefits accrued up to the 31st day of December, 1956, under the pension plan of the area municipality, and his employment by and service with the Metropolitan Police Force shall be deemed to be employment by and service with the police force of the area municipality for the purpose of determining eligibility for any such accrued benefits.

Area
municipality
liability

(5) An area municipality is liable to pay benefits accrued up to the 31st day of December, 1956, under subsection 4 only to the extent that such benefits exceed the benefits provided for services before the 1st day of January, 1957, in the pension plan established under this section.

Provision
of benefits
for past
services

(6) Subject to the approval of the Minister, the Metropolitan Council, on the recommendation of the Metropolitan Board, may by by-law provide benefits under the pension plan established under this section with respect to services performed prior to the 1st day of January, 1957, by the chief constables, constables and other police officers of the police forces of the area municipalities who have become members of the Metropolitan Police Force under subsection 1 of section 181 on a basis not less favourable than the basis required by subsection 2 for services after that date, and in such event the Metropolitan Council, with the like approval, may, for such purpose, determine,

- (a) the extent to which the provisions of subsections 3 and 14 shall continue to apply;
- (b) the payments to be made to such pension plan by each area municipality; and
- (c) the assets to be assigned or transferred under subsection 12.

Idem

(7) The benefits authorized by subsection 6 may be provided for such chief constables, constables and other police officers whose services with the Metropolitan Police Force were terminated by retirement with immediate pension benefits or by death after the 1st day of January, 1957, and before the date a by-law passed under subsection 6 becomes effective.

(8) Any payments required to be made by an area municipality under subsection 6 other than assets transferred or assigned may, with the consent of the Metropolitan Council, be on a deferred basis and raised in a subsequent year or years and any such payments shall be deemed to be current expenditures.

Payments of area municipalities on deferred basis

(9) Any additional payments required to be made by the Metropolitan Corporation to provide the benefits authorized by subsection 6 may be on a deferred basis and raised in a subsequent year or years and shall be deemed to be current expenditures.

Additional payments by Metropolitan Corporation

(10) Every chief constable, constable and other police officer of an area municipality who becomes a member of the Metropolitan Police Force under section 181 thereupon becomes a member of the pension plan established or to be established under this section.

Police officers to participate

(11) Until a pension plan is established under this section, the Metropolitan Board shall deduct by instalments 7 per cent of the gross salary of each member of the Metropolitan Police Force referred to in subsection 10, and the Metropolitan Corporation shall contribute an equivalent amount and shall pay over to the treasurer of the Metropolitan Corporation all deductions and contributions which shall be held by him in trust in a provisional fund.

Contributions in provisional fund

(12) At the request of the Metropolitan Board,

Transfer of assets

- (a) the ownership of the assets of the Toronto Police Benefit Fund;
- (b) a sum equal to the amount standing to the credit of the chief constable, constables and other police officers of each area municipality, except the City of Toronto, in the pension plan of the area municipality; and
- (c) the interest of every such police officer in the pension plan of an area municipality provided by contract with Her Majesty in accordance with the *Government Annuities Act* (Canada) or with an insurer,

R.S.C. 1952, c. 132

shall be transferred to the provisional fund under subsection 11 until the pension plan is established under this section and thereafter to such pension plan.

(13) The ownership of all securities registered in the name of the Toronto Police Benefit Fund shall be deemed to be transferred upon the various registry books of the issuers of such securities to the name of the Metropolitan Toronto Police Benefit Fund.

Securities deemed transferred on registry books

(14) Where any area municipality is committed to make payments in any year into the pension plan of any area municipality or the Toronto Police Benefit Fund with respect to past services of any chief constable, constable or other police officer,

Payments for which area municipality committed

the area municipality shall pay over in such year the amounts for which it is so committed to the provisional fund under subsection 11 until the pension plan is established under this section and thereafter to such pension plan.

Assets of
provisional
fund
transferred

(15) When a pension plan is established under this section, the assets of the provisional fund shall be transferred thereto.

Sick leave
credits

(16) The Metropolitan Board shall establish, effective on and after the 1st day of January, 1957, a sick leave credit plan for the chief constable, constables and other police officers who are members of the Metropolitan Police Force, and shall provide therein for sick leave credits at least equivalent to those to which each such person would have been entitled if he had remained a member of a police force in an area municipality and shall place to the credit of each such person the sick leave credits standing to his credit in the plan of the area municipality.

Holidays

(17) Where a chief constable, constable or other police officer of an area municipality becomes a member of the Metropolitan Police Force under section 181, the Metropolitan Board shall provide, during the first year he is such a member, for holidays with pay at least equivalent to those to which such police officer would have been entitled if he had remained a member of the police force of the area municipality. R.S.O. 1960, c. 260, s. 202 (2-17).

Metropolitan
Corporation
deemed
municipality under
R.S.O. 1970,
cc. 6, 284

184. The Metropolitan Corporation shall be deemed to be a municipality for the purpose of *The Administration of Justice Act*, and section 348 of *The Municipal Act*. 1968, c. 80, s. 14.

Metropolitan
Corporation
deemed a
municipality
under R.S.O.
1970, c. 250

185. The Metropolitan Corporation shall be deemed to be a municipality for the purpose of section 88 of *The Liquor Licence Act*. R.S.O. 1960, c. 260, s. 207.

Penalties

186. The fines and penalties that but for this Act would otherwise belong to an area municipality belong to the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 208.

PART XIII

LICENSING COMMISSION

Interpre-
tation

187. In this Part, "Licensing Commission" means the licensing commission established for The Municipality of Metropolitan Toronto under this Part. R.S.O. 1960, c. 260, s. 209.

Licensing
Commission

188.—(1) There shall be a licensing commission for The Municipality of Metropolitan Toronto to be known as Metropolitan Licensing Commission composed of,

- (a) the chairman of the Metropolitan Council or his delegate; and
- (b) two persons appointed by the Metropolitan Council who are not members of the council of an area municipality. R.S.O. 1960, c. 260, s. 210 (1); 1962-63, c. 89, s. 11 (1).

(2) The chairman of the Metropolitan Council may designate any member of the Metropolitan Council to be his delegate at any or all of the meetings of the Licensing Commission. Chairman
may appoint
delegate

(3) The Licensing Commission shall elect a chairman and may elect a vice-chairman, and a majority of the members of the Licensing Commission constitutes a quorum. R.S.O. 1960, c. 260, s. 210 (2, 3). Chairman
and quorum

189.—(1) The Licensing Commission has all the powers that may be exercised by boards of commissioners of police under, Powers

- (a) paragraphs 1, 4 and 6 of section 377 of *The Municipal Act*; R.S.O. 1970,
c. 284
- (b) paragraphs 7 and 8 of subsection 1 of section 381 of *The Municipal Act*;
- (c) paragraphs 4, 5, 12 and 14 of section 383 of *The Municipal Act*. R.S.O. 1960, c. 260, s. 211 (1); 1968, c. 80, s. 15.

(2) A by-law passed by the Licensing Commission pursuant to clause a of subsection 1 of this section and paragraph 1 of section 377 of *The Municipal Act* with respect to licensing, regulating and governing owners and drivers of ambulances may include provisions, Ambulance
service

- (a) for licensing, regulating and governing ambulance attendants and providing for examinations to be passed by ambulance drivers and attendants;
- (b) for requiring owners of ambulances to install and maintain such means of communication with any central ambulance dispatching system maintained by or for the Metropolitan Corporation as the by-law may prescribe;
- (c) for requiring owners and drivers of ambulances to accept and make calls as directed through such central ambulance dispatching system. 1966, c. 96, s. 27.

(3) The Metropolitan Council, by reference to the provisions of any Act, may by by-law authorize the Licensing Commission to exercise the powers of any area municipality or board of commissioners of police with respect to the licensing, revoking of a licence, regulating, governing, prohibiting or limiting of any trade, calling, business or occupation or the person carrying on or Further
powers

engaged in it and upon being so authorized the Licensing Commission may exercise such powers. R.S.O. 1960, c. 260, s. 211 (2).

Licensing
Commission
may summon
witnesses

190. The Licensing Commission has the same power to summon and examine witnesses on oath as to any matter connected with the execution of its powers and duties or as to any matter respecting any licence issued before the 1st day of January, 1957, by any body that formerly exercised the powers now vested in the Licensing Commission, to enforce their attendance and to compel them to give evidence and produce documents and things, as is vested in any court of law in civil cases. R.S.O. 1960, c. 260, s. 212.

By-laws

191. Where a by-law of the Licensing Commission passed under a provision of *The Municipal Act* or any other Act is applicable to an area municipality, any by-law of the area municipality passed under the same provision of *The Municipal Act* or any other Act has no effect and the area municipality does not have power to pass such a by-law while the by-law passed by the Licensing Commission is in effect in such area municipality. R.S.O. 1960, c. 260, s. 213.

Powers of
boards of
commissioners of
police to be
exercised by
City of
Toronto

192. All the powers and duties of a board of commissioners of police under *The Municipal Act* or any other Act and all the powers and duties of the Board of Commissioners of Police for the City of Toronto under any special Act, except those which by this Act are exercised by the Licensing Commission or the Metropolitan Board of Commissioners of Police, shall after the 1st day of January, 1957, be exercised by the council of the City of Toronto. R.S.O. 1960, c. 260, s. 214.

Application
of
R.S.O. 1970,
c. 284

193. Sections 246 and 247 and Part XXI of *The Municipal Act* apply *mutatis mutandis* to the Licensing Commission and to the by-laws passed by the Licensing Commission, and the Licensing Commission shall fix the fees to be paid for any licence. R.S.O. 1960, c. 260, s. 215.

Licensing
by-laws
may be
passed by
Council

194.—(1) Notwithstanding sections 189 and 190, the Metropolitan Council may pass any by-law that the Licensing Commission may pass, including any by-law that the Metropolitan Council may authorize the Licensing Commission to pass under subsection 2 of section 189, and may repeal in whole or in part any existing by-law of the Licensing Commission.

Effect on
power of
Commission
to pass
by-laws

(2) Where the Metropolitan Council has passed a by-law under a provision in any Act, the Licensing Commission shall not have the power to pass a by-law under such provision.

Application
of s. 191

(3) Section 191 applies to by-laws passed by the Metropolitan Council under this section.

(4) For the purposes of section 192, a power exercised by the Metropolitan Council under this section shall be deemed to be a power exercised by the Licensing Commission.

Exercise of
power by
Council

(5) Where the Metropolitan Council passes a by-law under subsection 1, the provisions of section 193 in so far as they apply to the passing and enforcement of by-laws and the fixing of fees shall apply to the Metropolitan Council and to such by-law.

Applica-
tion of
s. 193 to
Council

(6) Except with respect to its power to pass by-laws and fix fees nothing in this section affects the powers of the Licensing Commission. 1968, c. 80, s. 16.

Effect on
Licensing
Commission

195. The Metropolitan Corporation shall pay to the members of the Licensing Commission, except the chairman of the Metropolitan Council or his delegate, such remuneration for their services as may be determined by the Metropolitan Council. 1968, c. 80, s. 17.

Remunera-
tion of
members

PART XIV

HOUSING AND REDEVELOPMENT

196.—(1) The Metropolitan Corporation and the Metropolitan Council have all the powers conferred on the corporation or council of a municipality under *The Housing Development Act* or any other Act with respect to housing or building development, housing projects, temporary housing accommodation and redevelopment areas and with respect to any other matter concerned with the provision or improvement of housing accommodation.

Housing and
redevelop-
ment
R.S.O. 1970,
c. 213

(2) Nothing in subsection 1 shall be deemed to limit or interfere with the powers of the area municipalities with respect to the matters mentioned in subsection 1. R.S.O. 1960, c. 260, s. 217.

Powers of
area munici-
palities

197. Without limiting its powers under subsection 1 of section 196, the Metropolitan Corporation,

Agreements
with munici-
palities

(a) shall be deemed to be a governmental authority within the meaning of section 17 of *The Housing Development Act*; and

(b) may enter into agreements with any area municipality for sharing or contributing to the costs incurred by the area municipality in exercising any of its powers with respect to the matters mentioned in subsection 1 of section 196. R.S.O. 1960, c. 260, s. 218.

Grants for
homes for
elderly
persons

198. The Metropolitan Council may make grants in aid of the establishment, construction, extension or equipment of homes for the care of elderly persons. 1968, c. 80, s. 18.

PART XV

PLANNING

Metropoli-
tan Toronto
Planning
Area
Designated
municipality
R.S.O. 1970,
c. 349

199.—(1) The Metropolitan Toronto Planning Area is continued.

(2) The Metropolitan Corporation shall be the designated municipality within the meaning of *The Planning Act* for the purposes of the said planning area. R.S.O. 1960, c. 260, s. 219 (1, 2).

Planning
board

(3) The planning board for the planning area shall be constituted as provided in *The Planning Act*, except that the membership of the planning board shall at all times include two persons recommended by The Metropolitan Toronto School Board and approved by the Minister.

Area muni-
cipalities
subsidiary
planning
areas

(4) On and after the 1st day of January, 1967, subject to *The Planning Act*, each area municipality is a subsidiary planning area within The Metropolitan Toronto Planning Area, and the subsidiary planning areas within The Metropolitan Toronto Planning Area but outside the Metropolitan Area are continued. 1966, c. 96, s. 28.

Proviso

(5) Nothing in subsection 4 affects any official plan in effect in any subsidiary planning area.

Subsidiary
plans

(6) When the Minister has approved an official plan adopted by the Metropolitan Council,

- (a) any official plan then in effect in a subsidiary planning area affected thereby shall be amended to conform therewith;
- (b) no official plan of a subsidiary planning area shall be adopted that does not conform therewith;
- (c) no public work, as defined in *The Planning Act*, shall be undertaken, and no by-law shall be passed, by any municipality or local board within The Metropolitan Toronto Planning Area, that does not conform therewith. R.S.O. 1960, c. 260, s. 219 (6, 7).

Application
of
R.S.O. 1970,
c. 349, to
Metro-
politan
Corporation

200.—(1) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of sections 1 to 22, 24 to 27, 33, 43 and 44 of *The Planning Act*, and no area municipality shall be deemed to be a municipality for the purposes of section 8 of *The Planning Act* with respect to the financial requirements of the

board of The Metropolitan Toronto Planning Area. 1966, c. 96, s. 29.

(2) The Metropolitan Corporation may enter into agreements with area municipalities or persons relating to conditions of approval of plans of subdivision and shall be deemed to have always had authority to enter into such agreements. R.S.O. 1960, c. 260, s. 220 (2). Agreement re plans of subdivision

(3) The Metropolitan Corporation, with the approval of the Minister, may enter into an agreement with any governmental authority, or any agency thereof created by statute, for the carrying out of studies relating to the physical condition of The Metropolitan Toronto Planning Area or any part thereof. 1964, c. 71, s. 2. Agreements re special studies

201. Before an official plan for The Metropolitan Toronto Planning Area is adopted, amended or repealed by the Metropolitan Council or by the council of any municipality within The Metropolitan Toronto Planning Area, such council shall give notice thereof to each other municipality within The Metropolitan Toronto Planning Area, including the Metropolitan Corporation, and shall give to each such municipality an opportunity to make representation thereon to the council or a committee thereof appointed for such purpose. 1966, c. 96, s. 30. Notice of proposed adoption, etc., of official plan

202. The Scope and general purpose of the official plan for The Metropolitan Toronto Planning Area includes, Scope and purposes of official plan

- (a) land uses and consideration generally of industrial, agricultural, residential and commercial areas;
- (b) ways of communication;
- (c) sanitation;
- (d) green belts and park areas;
- (e) public transportation,

and such other matters as the Minister of Municipal Affairs may from time to time define under *The Planning Act*. R.S.O. 1960, c. 260, s. 221.

203. Except as provided in this Part, the provisions of *The Planning Act* continue to apply. R.S.O. 1960, c. 260, s. 222. Application of R.S.O. 1970, c. 349

PART XVI

PARKS, RECREATION AREAS, ETC.

204.—(1) The Metropolitan Council may pass by-laws for acquiring land for and establishing, laying out and improving and maintaining public parks, zoological gardens, recreation areas, Acquiring land for parks, etc.

squares, avenues, boulevards and drives in the Metropolitan Area or in any adjoining local municipality in the County of Ontario or the County of Peel or in any local municipality in The Regional Municipality of York, and for exercising all or any of the powers that are conferred on boards of park management by *The Public Parks Act*.

R.S.O. 1970,
c. 384

Application
R.S.O. 1970,
c. 284

(2) Paragraphs 70 and 71 of section 352 of *The Municipal Act* apply *mutatis mutandis* to the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 223, *amended*.

Metropolitan
Corporation
a muni-
cipality
under R.S.O.
1970, c. 337
Park lands
owned by
Metropolitan
Conservation
Authority

(3) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of *The Parks Assistance Act*.

(4) Where, under an agreement with The Metropolitan Toronto and Region Conservation Authority, lands vested in the Authority are managed and controlled by the Metropolitan Corporation, the Metropolitan Corporation may,

(a) exercise all or any of the powers conferred on it under subsection 1 in respect of such lands;

(b) lay out, construct and maintain roads on such lands and, with the consent of the area municipality in which such lands, or any part thereof, are situate, assume the maintenance of existing roads on such lands, or any part thereof;

R.S.O. 1970,
c. 202

(c) subject to *The Highway Traffic Act*, regulate traffic on such roads and prescribe the rate of speed for motor vehicles driven on such roads in accordance with subsection 4 of section 82 of *The Highway Traffic Act*;

(d) notwithstanding the provisions of any other Act, exempt from municipal taxation any such lands for so long as they are managed and controlled by the Metropolitan Corporation and used for park purposes.

Tax
exemption
R.S.O. 1970,
c. 32

(5) An exemption from taxes under subsection 4 shall be deemed to have the same effect as an exemption from taxes under section 3 of *The Assessment Act*. 1960-61, c. 61, s. 9.

Payments
in lieu of
taxes

205.—(1) Where the Metropolitan Corporation has acquired land under section 204, the Metropolitan Council may agree to pay annually to the area municipality or other local municipality in which the land is situate a sum not exceeding the amount that would have been payable to the municipality as taxes in the year of acquisition if the land were not exempt from taxation.

Proviso

(2) Subsection 1 does not apply where the land acquired by the Metropolitan Corporation was acquired from the municipality in which the land was situate or from a local board thereof and at the time of acquisition was used as a public park, recreation area, square, avenue, boulevard or drive. R.S.O. 1960, c. 260, s. 224.

206.—(1) For the purposes of section 204, the Metropolitan Council may with the approval of the Municipal Board by by-law assume any existing public park, zoological gardens, recreation area, square, avenue, boulevard or drive vested in any area municipality or in any local board thereof, and upon the passing of the by-law the public park, zoological gardens, recreation area, square, avenue, boulevard or drive vests in the Metropolitan Corporation. Assumption of existing parks, etc.

(2) Where the Metropolitan Corporation assumes any existing public park, zoological gardens, recreation area, square, avenue, boulevard or drive vested in any area municipality or local board thereof, Existing debenture liability

- (a) no compensation or damages shall be payable to the area municipality or local board;
- (b) the Metropolitan Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality in respect of the property assumed.

(3) If the Metropolitan Corporation fails to make any payment as required by clause *b* of subsection 2, the area municipality may charge the Metropolitan Corporation interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. Default

(4) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued in respect of the property assumed, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1960, c. 260, s. 225 (1-4). Settling of doubts

207.—(1) The Metropolitan Council may by by-law assume any of the lands in the City of Toronto designated or known as Exhibition Park or created by fill to the south thereof, saving and excepting any lands or any interest therein of Her Majesty in right of Ontario, and the enactment of such by-law shall vest in the Metropolitan Corporation a full, clear and absolute title to the lands as described in such by-law free and clear of all conditions as to use contained in *An Act respecting the City of Toronto*, being chapter 86 of the Statutes of Ontario, 1903. Assumption of C.N.E.

(2) No compensation or damages shall be payable by the Metropolitan Corporation to the City of Toronto for such assumed lands, but the Metropolitan Corporation shall thereafter pay before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued in respect of the property assumed, and the provisions of subsections 3 and 4 of section 206 apply *mutatis mutandis*. Existing debenture liability

Use of
lands

(3) Such assumed lands shall be used,

- (a) for parks and exhibition purposes;
- (b) for the purposes of trade and agricultural fairs;
- (c) for the holding of displays, sporting events, public entertainments and meetings;
- (d) for highway, electrical transmission or public utility purposes; or
- (e) for any other purpose that the City of Toronto may approve.

Annual
exhibition

(4) An exhibition shall be held annually on such assumed lands.

Powers
under
R.S.O. 1970,
c. 384

(5) With respect to the lands so assumed, the Metropolitan Council may exercise all or any of the powers that are conferred on boards of park management by *The Public Parks Act* and shall have all other powers required for the full and effective use of such assumed lands in accordance with subsection 3.

Recon-
veyance

(6) If any of the lands vested by this section in the Metropolitan Corporation cease to be used for the purposes of subsection 3, the Metropolitan Corporation shall thereupon transfer such lands to the City of Toronto, and no compensation or damages shall be payable to the Metropolitan Corporation in respect thereof.

Tax
exemption

(7) Such assumed lands shall be exempt from taxation for municipal purposes so long as such lands continue to be owned by the Metropolitan Corporation and used for the purposes of the Canadian National Exhibition Association, provided that the full value of such lands, except the lands that are exempt from taxation under section 3 of *The Assessment Act*, shall be included in the assessment of the City of Toronto for the purposes of the apportionment of the levies of the Metropolitan Corporation among the area municipalities.

R.S.O. 1970,
c. 32

Agreements

(8) Subject to subsection 9, upon the passing of the by-law referred to in subsection 1, the Metropolitan Corporation shall be responsible for all liabilities of the City of Toronto and is entitled to all benefits under agreements made by or on behalf of the City of Toronto with respect to the use of such assumed lands, and the City of Toronto shall be relieved of any liability thereunder.

Idem

(9) Subsection 8 does not apply to agreements between the City of Toronto and the Metropolitan Corporation or to agreements for payments in lieu of taxes.

Water-
mains, etc.,
in assumed
lands

(10) The City of Toronto may continue to use, maintain, repair, reconstruct and replace watermains, sewers and sewage works in such assumed lands until and unless the areas in which such watermains, sewers and sewage works are located are required by the Metropolitan Corporation, in which case the

Metropolitan Corporation shall pay to the City of Toronto such amount as may be agreed upon or, failing agreement, such amount as may be determined by arbitration, and the provisions of *The Expropriations Act* apply to any such arbitration.

R.S.O. 1970,
c. 154

(11) The Metropolitan Corporation shall pay to the City of Toronto such amount for personal property on such assumed lands or in the buildings thereon as may be mutually agreed upon between the Metropolitan Corporation and the City of Toronto.

Personal
property

(12) The Metropolitan Corporation may enter into agreements with the Canadian National Exhibition Association, the Royal Agricultural Winter Fair and other bodies respecting the use of such assumed lands, the charging of entrance or admission fees and any other matter or thing that the Metropolitan Council considers desirable for the full and effective use of such assumed lands for the purposes set out in subsection 3.

Agreements
with C.N.E.,
etc.

(13) The Metropolitan Corporation may make grants to and erect and maintain buildings and structures for the use of the Canadian National Exhibition Association and other bodies and may enter into agreements with the Association and other bodies with respect to the operation and maintenance throughout the year of all or any part of such assumed lands and any buildings or structures now or hereafter erected thereon.

Grants,
etc.

(14) The Metropolitan Corporation may enter into an agreement with the Canadian National Exhibition Association appointing the Association as its agent to carry out any of the powers of the Metropolitan Corporation under this section, and, upon the execution of such an agreement, the Association is authorized to exercise such powers subject to such restrictions as may be set out in the agreement. 1966, c. 96, s. 32.

Agreement
re C.N.E.
as agent

208.—(1) The Metropolitan Corporation may acquire the theatre in the City of Toronto known as the O'Keefe Centre and the land used in conjunction therewith, and for such purpose may enter into an agreement providing for payment of purchase moneys over a period of years without the approval of the Municipal Board and for the occupation by the Metropolitan Corporation of such land and building during such period. 1968, c. 80, s. 19, *part*.

Acquisition
of O'Keefe
Centre

(2) The corporation known as "The Board of Management of the O'Keefe Centre", in this section referred to as the Board of Management, is continued and such Board shall have a corporate seal, may sue and be sued in its own name, may enter into contracts, including contracts of employment, and shall have all powers necessary for the operation, management and maintenance of such Centre as a theatre and auditorium and as a centre for the holding of meetings, receptions and displays of every kind. 1968, c. 80, s. 19, *part, amended*.

Board
established

Policies

(3) The Metropolitan Council may by by-law establish general policies to be followed by the Board of Management in the operation and management of the Centre.

Composition

(4) The Board of Management shall be composed of not less than three and not more than seven persons, who are not members of the Metropolitan Council or of the council of an area municipality, and shall be appointed by the Metropolitan Council by resolution for such terms of office as the Council may determine.

Chairman,
quorum

(5) The Board of Management, from among its members, shall elect a chairman and may elect a vice-chairman, and a majority of its members constitutes a quorum.

Board of
Management
not deemed
local board

(6) The Board of Management shall be deemed not to be a local board of the Metropolitan Corporation.

Audit

(7) The accounts and transactions of the Board of Management shall be audited by the auditor for the Metropolitan Corporation.

Pensions

(8) The Board of Management may provide pensions for its employees or any class thereof and their wives and children, and may enter into agreements with any person for such purpose.

Respon-
sibility of
Metropo-
litan
Corporation

(9) The Metropolitan Corporation is entitled to any surplus resulting from the operations of the Board of Management and is responsible for any deficit incurred by it, but the Board of Management shall not borrow money without the approval of the Metropolitan Council.

Taxation
R.S.O. 1970,
c. 32

(10) Notwithstanding section 252, paragraph 9 of section 3 of *The Assessment Act* does not apply to land acquired by the Metropolitan Corporation pursuant to powers conferred on it by this section. 1968, c. 80, s. 19, *part*.

Interpre-
tation

209.—(1) In this section, "Society" means the Metropolitan Toronto Zoological Society.

Agreement
to operate
and manage
zoological
garden

(2) The Metropolitan Council may by by-law delegate to the Society any or all of the Council's powers to operate and manage a zoological garden and related facilities established by the Council, and may enter into one or more agreements with the Society entrusting such operation and management to the Society on such terms and conditions as the Council may consider proper.

By-laws
re: operation
and
management

(3) The Metropolitan Council may by by-law establish general policies to be followed by the Society in the operation and management of the zoological garden and related facilities.

Moneys

(4) The Metropolitan Corporation may provide moneys to the Society for its purposes, including the operation and management of the zoological garden, but it shall not be responsible for any

deficit or debt incurred by the Society unless the deficit or debt was incurred with the approval of the Metropolitan Council.

(5) Notwithstanding any delegation of powers or the making of an agreement between the Metropolitan Corporation and the Society under subsection 2, the Society shall be deemed not to be a local board of the Metropolitan Corporation provided, however, that while such delegation or agreement is in effect, the accounts and transactions of the Society shall be audited by the auditor of the Metropolitan Corporation.

Society
deemed not
to be local
board

(6) The occupation, management and control of lands by the Society under an agreement under subsection 1 shall be deemed, for the purposes of subsections 4 and 5 of section 204 of this Act and of paragraph 9 of section 3 of *The Assessment Act*, to be occupation, management and control by the Metropolitan Corporation of lands used for park purposes. 1970, c. 66, s. 2.

Occupation
by Society
deemed
occupation
by
Metropolitan
Corporation
R.S.O. 1970,
c. 32

210.—(1) For the purposes of section 204, all land comprising Toronto Islands owned by the City of Toronto and all rights of the City of Toronto to use and occupy land comprising Toronto Islands owned by The Toronto Harbour Commissioners, except such portions of all such lands as are set aside and used or required for the purposes of the Toronto Island Airport, are vested in the Metropolitan Corporation as of the 1st day of January, 1956, subject to the provisions of then existing leases, and, subject to subsection 2, no compensation or damages shall be payable to the City of Toronto in respect thereof.

Lands on
Toronto
Islands
transferred

(2) The Metropolitan Corporation shall pay to the City of Toronto,

Metropolitan
Corporation
liability

- (a) before the due date all amounts of principal and interest becoming due upon any outstanding debentures issued by the City of Toronto for the purposes of the land and rights vested by this section in the Metropolitan Corporation;
- (b) the amount approved by the Municipal Board and expended by the City of Toronto, but not debentured, for shore protection of Algonquin Island;
- (c) the amount approved by the Municipal Board and expended by the City of Toronto, but not debentured, for acquisition of leasehold interests and clearing of sites;
- (d) such amount for personal property, exclusive of leaseholds, transferred to the Metropolitan Corporation as may be mutually agreed upon between the Metropolitan Corporation and the City of Toronto;
- (e) the amount of the expenses incurred by the City of Toronto after the 1st day of January, 1956, with respect

to the operation and maintenance of the land and rights vested by this section in the Metropolitan Corporation.

Use by
City of
Toronto

(3) Where any portion of the land and rights vested by this section in the Metropolitan Corporation is being used by the City of Toronto for the purpose of providing municipal services other than park and recreation services, the City of Toronto may continue to use such portion rent free so long as it is required to provide such municipal services.

Metropolitan
Corporation
liable for
lighting, etc.

(4) The Metropolitan Corporation shall pay to the City of Toronto annually such amount for the lighting, refuse collection and disposal services provided by the City of Toronto in respect of the land and rights vested by this section in the Metropolitan Corporation as may be mutually agreed upon between the Metropolitan Corporation and the City of Toronto.

Lands not
used for
park
purposes

(5) If any of the land vested by this section in the Metropolitan Corporation and any land comprising Toronto Islands, which is hereafter conveyed by The Toronto Harbour Commissioners to the Metropolitan Corporation, ceases to be used for any of the purposes of section 204, the Metropolitan Corporation shall thereupon transfer such land to the City of Toronto and no compensation or damages shall be payable to the Metropolitan Corporation in respect thereof; provided this subsection does not apply to any land so long as it continues to be used as at the 1st day of January, 1956, under any then existing lease or renewal or extension thereof.

Settling
of doubts

(6) In the event of any doubt as to whether any outstanding debenture or portion thereof was issued for the purposes of the land and rights vested by this section in the Metropolitan Corporation or of failure to agree as to the amount to be paid for the personal property transferred to the Metropolitan Corporation or as to the amount to be paid for lighting, refuse collection and disposal services provided by the City of Toronto, the Municipal Board, upon application, may determine the matter, and its decision is final. R.S.O. 1960, c. 260, s. 226.

Ferry
service

(7) Notwithstanding any other provision in this Act, the Metropolitan Corporation may establish, maintain and operate a ferry service for providing access to the lands vested in the Metropolitan Corporation under this section for so long as such lands or any part thereof remain so vested and are used for park purposes, and, for such purposes, the Metropolitan Corporation may assume the rights, equipment and other assets of the Toronto Transit Commission used in providing such service subject only to the payment of any outstanding liability in respect thereto and such adjustment as the Metropolitan Corporation may determine and may enter into agreements with any person with respect to the provision of such service. 1960-61, c. 61, s. 10.

(8) Notwithstanding any other provision in this Act, the Metropolitan Corporation may establish, maintain and operate a public bus transportation system on the Toronto Islands and for such purposes the Metropolitan Corporation may,

Bus system
on Toronto
Islands

- (a) maintain and operate buses for the conveyance of passengers;
- (b) acquire by purchase or otherwise any real or personal property required for the establishment, operation, maintenance or extension of the system; and
- (c) fix transportation fares and tolls and make regulations with respect to the operation and control of the system. 1961-62, c. 88, s. 13.

PART XVII

FINANCES

211. In this Part, "rateable property" includes business and other assessment made under *The Assessment Act*. R.S.O. 1960, c. 260, s. 227.

Interpre-
tation
R.S.O. 1970,
c. 32

212. Section 312 of *The Municipal Act* applies *mutatis mutandis* to the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 228.

Investment
of moneys not
immediately
required
R.S.O. 1970,
c. 284

YEARLY LEVIES AND ESTIMATES

213.—(1) The Metropolitan Council shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the Metropolitan Corporation, including the sums required by law to be provided by the Metropolitan Council for school purposes and for any local board of the Metropolitan Corporation, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Department may from time to time prescribe.

Yearly
estimates

(2) In preparing the estimates, the Metropolitan Council shall make due allowance for a surplus of any previous year which will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves within such limits as to type and amount as the Department may approve but shall not make any allowance for payments to be received during the current year under *The Municipal Unconditional Grants Act*. R.S.O. 1960, c. 260, s. 229.

Allowance
to be
made in
estimates

R.S.O. 1970,
c. 293

214.—(1) The Metropolitan Council shall in each year levy against the area municipalities a sum sufficient,

Levy on
area muni-
cipalities

- (a) for payment of the estimated current annual expenditures as adopted;

- (b) for payment of all debts of the Metropolitan Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the Metropolitan Corporation is liable under this Act.

Apportion-
ment

(2) The Metropolitan Council shall ascertain and by by-law direct what portion of the sum mentioned in subsection 1 shall be levied against and in each area municipality.

Public
school
purposes

(3) The amount levied under subsection 1 for public school purposes shall be apportioned among the area municipalities in the proportion that the whole rateable property rateable for public school purposes in each of the area municipalities bears to the whole rateable property rateable for public school purposes in the Metropolitan Area, according to the last revised assessment rolls.

Secondary
school
purposes

(4) The amount levied under subsection 1 for secondary school purposes shall be apportioned among the area municipalities in the proportion that the whole rateable property rateable for secondary school purposes in each of the area municipalities bears to the whole rateable property rateable for secondary school purposes in the Metropolitan Area, according to the last revised assessment rolls.

Other
purposes

(5) All other amounts levied under subsection 1 shall be apportioned among the area municipalities in the proportion that the whole rateable property in each area municipality bears to the whole rateable property in the Metropolitan Area, according to the last revised assessment rolls.

Apportion-
ment where
all rolls
not revised

(6) Notwithstanding subsections 3, 4 and 5, the Metropolitan Council may pass its by-law under subsection 2 before the assessment rolls of all the area municipalities are revised by the Assessment Review Court, and in that case the levies shall be apportioned among the area municipalities according to the last revised assessment rolls of those area municipalities whose assessment rolls have been so revised and the assessment rolls as returned of those area municipalities whose assessment rolls have not been so revised.

Adjustment

(7) Where the by-law under subsection 2 is passed as provided in subsection 6, the Metropolitan Council shall, forthwith after the assessment rolls of all the area municipalities have been revised by the Assessment Review Court, amend the by-law so as to make the apportionments among the area municipalities according to the assessment rolls as so revised, and,

- (a) where the moneys levied against an area municipality are thereby increased, the treasurer of the area municipi-

pality shall pay the amount of the increase to the treasurer of the Metropolitan Corporation; and

- (b) where the moneys levied against an area municipality are thereby decreased, the treasurer of the area municipality shall be liable to pay to the treasurer of the Metropolitan Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the Metropolitan Corporation shall pay the amount of the decrease to the treasurer of the area municipality.

(8) The apportionment of the levy among the area municipalities as provided for in subsections 2 to 5 shall be based on the full value of all rateable property, and no fixed assessment other than a fixed assessment under section 31 of *The Assessment Act* or partial or total exemption from assessment or taxation applies thereto, except as provided in section 3 of *The Assessment Act*.

Fixed assessments, etc., not to apply R.S.O. 1970, c. 32

(9) Notwithstanding anything in this section, the assessment upon which the levy among the area municipalities shall be apportioned shall include the valuations of all properties for which payments in lieu of taxes are paid by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof or The Hydro-Electric Power Commission of Ontario to any area municipality. R.S.O. 1960, c. 260, s. 230 (1-9).

Assessment upon which levy apportioned to include valuations on properties for which payments in lieu of taxes paid

(10) The clerk of an area municipality shall transmit to the clerk of the Metropolitan Corporation, within sixty days of the receipt of a grant paid in lieu of taxes, a statement of the valuations of real property in the area municipality upon which such grant was made. 1964, c. 71, s. 3.

Valuations of properties in respect of which grants in lieu of taxes received

(11) One by-law or several by-laws for making the levies may be passed as the Metropolitan Council considers expedient.

Levy by-laws

(12) The clerk of the Metropolitan Corporation shall forthwith after the metropolitan levies have been apportioned certify to the clerk of each area municipality the amount that has been so directed to be levied therein for the then current year for metropolitan purposes showing separately the amounts required for public school purposes, secondary school purposes and general purposes.

Certificate of levy

(13) Subject to subsections 4, 5 and 6 of section 47 of *The Assessment Act*, in each area municipality, the metropolitan levy,

Local levies for metropolitan purposes

- (a) for public school purposes, shall be calculated and levied upon the whole rateable property rateable for public school purposes;

- (b) for secondary school purposes, shall be calculated and levied upon the whole rateable property rateable for secondary school purposes; and
- (c) for all other purposes, shall be calculated and levied upon the whole rateable property rateable for such purposes,

within such area municipality according to the last revised assessment roll thereof.

Payment

(14) All moneys levied against an area municipality under the authority of this section shall be deemed to be taxes and are a debt of the area municipality to the Metropolitan Corporation and the treasurer of every area municipality shall pay the moneys so levied to the treasurer of the Metropolitan Corporation at the times and in the amounts specified by the by-law of the Metropolitan Council mentioned in subsection 2.

Default

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. R.S.O. 1960, c. 260, s. 230 (10-14).

Levy
authorized
before
estimates
adopted

215.—(1) Notwithstanding section 214, the Metropolitan Council may, in any year before the adoption of the estimates for that year, levy against each of the area municipalities a sum not exceeding 50 per cent of the levy made by the Metropolitan Council in the preceding year against that area municipality or against the former area municipalities included within that area municipality, and subsections 14 and 15 of section 214 apply to such a levy.

Levy under
s. 214 to be
reduced

(2) The amount of any levy made under subsection 1 shall be deducted from the amount of the levy made under section 214. 1966, c. 96, s. 33, *part.*

RESERVE FUNDS

Reserve
funds

216.—(1) The Metropolitan Council, or The Metropolitan Toronto School Board with the approval of the Metropolitan Council, may in each year, if authorized by a two-thirds vote of the members present at a meeting of the Metropolitan Council or the School Board, as the case may be, provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds. 1960-61, c. 61, s. 11, *amended.*

Investments
and income

(2) The moneys raised for a reserve fund established under subsection 1 shall be paid into a special account and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings derived from the investment of such moneys form part of the reserve fund.

(3) The moneys raised for a reserve fund established under subsection 1 shall not be expended, pledged or applied to any purpose other than that for which the fund was established without the approval of the Department.

Expenditure
of reserve
fund
moneys

(4) The auditor in his annual report shall report on the activities and position of each reserve fund established under subsection 1. R.S.O. 1960, c. 260, s. 232 (2-4).

Auditor to
report on
reserve
funds

TEMPORARY LOANS

217.—(1) The Metropolitan Council may by by-law, either before or after the passing of by-laws for imposing levies on the area municipalities for the current year, authorize the chairman and treasurer to borrow from time to time by way of promissory note such sums as the Metropolitan Council considers necessary to meet, until the levies are received, the current expenditures of the Metropolitan Corporation for the year, including the amounts required for principal and interest falling due within the year upon any debt of the Metropolitan Corporation, and the sums required by law to be provided by the Metropolitan Council for school purposes and for any local board of the Metropolitan Corporation.

Current
borrowings

(2) The amount that may be borrowed in any year for the purposes mentioned in subsection 1 shall not, except with the approval of the Municipal Board, exceed 70 per cent of the total amount of the estimated revenues of the Metropolitan Corporation as set forth in the estimates adopted for the year.

Limit upon
borrowings

(3) Until such estimates are adopted, the limitation upon borrowing prescribed by subsection 2 shall temporarily be calculated upon the estimated revenues of the Metropolitan Corporation as set forth in the estimates adopted for the next preceding year.

Temporary
application
of estimates
of preceding
year

(4) For the purposes of subsections 2 and 3, estimated revenues shall not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of levies and proceeds from the sale of assets.

Exclusion
from
estimated
revenues

(5) The lender is not bound to establish the necessity of borrowing the sum lent or to see to its application.

Protection
of lender

(6) Any promissory note made under the authority of this section shall be sealed with the seal of the Metropolitan Corporation and signed by the chairman or by some other person authorized by by-law to sign it, and by the treasurer, and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Execution of
promissory
notes

(7) The Metropolitan Council may by by-law provide or authorize the chairman and treasurer to provide by agreement

Creation
of charge

that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the Metropolitan Corporation for the current year and for any preceding years as and when such revenues are received; provided that such charge does not defeat or affect and is subject to any prior charge then subsisting in favour of any other lender.

Execution of
agreements

(8) Any agreement entered into under subsection 7 shall be sealed with the corporate seal and signed by the chairman and treasurer.

Penalty for
excess bor-
rowings

(9) If the Metropolitan Council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor is disqualified from holding any municipal office for two years.

Penalty for
misapplica-
tion of
revenues by
Metro-
politan
Council

(10) If the Metropolitan Council authorizes the application of any revenues of the Metropolitan Corporation charged under the authority of this section otherwise than in repayment of the loan secured by such charge, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Penalty for
misapplica-
tion of
revenues by
officials

(11) If any member of the Metropolitan Council or officer of the Metropolitan Corporation applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he is personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Saving
as to
penalties

(12) Subsections 9, 10 and 11 do not apply to the Metropolitan Council or any member of the Metropolitan Council or officer of the Metropolitan Corporation acting under an order or direction issued or made under the authority of Part III of *The Department of Municipal Affairs Act*, nor do they apply in any case where application of the revenues of the Metropolitan Corporation is made with the consent of the lender in whose favour a charge exists. R.S.O. 1960, c. 260, s. 233.

R.S.O. 1970,
c. 118

DEBT

Debt
R.S.O. 1970,
c. 323

218.—(1) Subject to the limitations and restrictions in this Act and *The Ontario Municipal Board Act*, the Metropolitan Council may borrow money for the purposes of,

- (a) the Metropolitan Corporation, including the purposes of the Toronto Transit Commission and of the Metropolitan Toronto Library Board;
- (b) any area municipality;
- (c) the joint purposes of any two or more area municipalities;
- (d) any board of education in the Metropolitan Area,

whether under this or any general or special Act, and may issue debentures therefor on the credit of the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 234 (1); 1966, c. 96, s. 34.

(2) Notwithstanding any other provision of this Part, the Metropolitan Corporation may expend moneys for the purposes of an extension to the rapid transit system of the Toronto Transit Commission and may issue debentures therefor for any term or terms not exceeding forty years and may, with the approval of the Municipal Board, provide for the refinancing of not more than one-half of the amount of any such issue at the end of the term thereof, provided that the total period for repayment of the debt created shall not exceed forty years.

Authority
to expend
moneys for
rapid transit
extension

(3) All debentures issued pursuant to a by-law passed by the Metropolitan Council under the authority of this Act are direct, joint and several obligations of the Metropolitan Corporation and the area municipalities notwithstanding the fact that the whole or any portion of the rates imposed for the payment thereof may have been levied only against one or more of the area municipalities but nothing in this subsection affects the rights of the Metropolitan Corporation and of the area municipalities respectively as among themselves.

Liability

(4) Notwithstanding any general or special Act, no area municipality has, after the 31st day of December, 1953, power to issue debentures.

Limitation

(5) When an area municipality, prior to the 31st day of December, 1953,

Uncom-
pleted works

(a) has applied for and obtained the final approval of the Municipal Board in respect of any work, project or other matter mentioned in subsection 1 of section 64 of *The Ontario Municipal Board Act*; and

R.S.O. 1970,
c. 323

(b) has entered into a contract for or authorized the commencement of such work, project or matter but has not prior to that date issued the debentures authorized,

the Metropolitan Council, upon the request of the council of the area municipality, shall pass a by-law authorizing the issue and sale of debentures of the Metropolitan Corporation for the purposes and in the amount approved by the Municipal Board and shall, if required by the area municipality, issue such debentures and provide temporary financing for the area municipality in the manner provided in section 222, and no further approval of the Municipal Board is required.

(6) Bonds, debentures and other evidences of indebtedness of the Metropolitan Corporation shall be deemed to be bonds, debentures and other evidences of indebtedness of a municipal corporation for the purposes of *The Trustee Act*. R.S.O. 1960, c. 260, s. 234 (2-6).

Bonds,
debentures,
etc.,
trustee
investments
R.S.O. 1970,
c. 470

Applications
of
R.S.O. 1970,
c. 284

219. The references in subsection 2 of section 293 of *The Municipal Act* to a two-year term and to a biennial election shall, with respect to the Metropolitan Council and the councils of each area municipality, be deemed to be references to a three-year term and to a triennial election. 1966, c. 96, s. 35.

Power to
incur debt
or issue
debentures
R.S.O. 1960,
c. 323

220.—(1) Subject to the limitations and restrictions in this Act and *The Ontario Municipal Board Act*, the Metropolitan Corporation may by by-law incur a debt or issue debentures for the purposes set forth in subsection 1 of section 218 of this Act and, notwithstanding any general or special Act, such by-law may be passed without the assent of the electors of the Metropolitan Area.

Idem

(2) Where, under any general or special Act, an area municipality cannot incur a debt or issue debentures for a particular purpose without the assent of its electors or without the concurrence of a specified number of the members of its council, the Metropolitan Council shall not pass a by-law authorizing the issue of debentures on behalf of such area municipality for such purpose unless such assent or concurrence to the passing of the by-law by the Metropolitan Council has been obtained.

Proviso

(3) Nothing in subsection 2 requires the assent of any electors where such assent has been dispensed with under section 63 of *The Ontario Municipal Board Act*. R.S.O. 1960, c. 260, s. 235.

Hearing

221.—(1) Notwithstanding any general or special Act, the Municipal Board, before making any order under section 64 of *The Ontario Municipal Board Act* on the application of the Metropolitan Corporation or of any area municipality, shall hold a public hearing for the purpose of inquiring into the merits of the matter.

Notice

(2) Notice of the hearing shall be given to the clerk of the Metropolitan Corporation and to the clerk of each area municipality in such manner as the Municipal Board may direct.

Dispensation with
hearing

(3) The Municipal Board may dispense with the public hearing if the applicant files with the secretary of the Municipal Board a certified copy of a resolution of the council of each corporation entitled to notice under subsection 2 consenting to such dispensation. R.S.O. 1960, c. 260, s. 236.

Idem

(4) The Municipal Board may direct that an applicant give, by registered mail, to the persons mentioned in subsection 2 notice of any application including a requirement that the Metropolitan Corporation or any area municipality file with the applicant, within such time as may be specified by the Municipal Board, any objection to the application, and, if no such objection is filed within the time specified, the Municipal Board may dispense with the public hearing. 1961-62, c. 88, s. 14.

222.—(1) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for its purposes, the Metropolitan Council pending the issue and sale of the debentures may agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purpose authorized, and may by by-law pending the sale of such debentures or in lieu of selling them authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan.

Borrowing
pending
issue and
sale of
debentures

(2) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the Metropolitan Corporation for the purposes of an area municipality or a board of education, the Metropolitan Council pending the issue and sale of the debentures may, and on the request of the area municipality or board of education shall, agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purposes authorized, and may, or on the request of the area municipality or board of education shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality or board of education. R.S.O. 1960, c. 260, s. 237 (1, 2).

Idem

(3) The Metropolitan Corporation may charge interest on any proceeds of an advance or loan transferred under subsection 2 at a rate sufficient to reimburse it for the cost of such advance or loan. 1965, c. 81, s. 7.

Interest
on proceeds
transferred

(4) The proceeds of every advance or loan under this section shall be applied to the purposes for which the debentures were authorized, but the lender shall not be bound to see to the application of the proceeds and, if the debentures are subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan and, where the debentures were issued for the purposes of an area municipality or board of education, the balance, subject to section 234, shall be transferred to the area municipality or board of education.

Application
of proceeds
of loan

(5) Subject to subsection 3, the redemption of a debenture hypothecated does not prevent the subsequent sale thereof. R.S.O. 1960, c. 260, s. 237 (3, 4).

Hypotheca-
tion not
to prevent
subsequent
sale of
debentures

223.—(1) Subject to subsection 2, a money by-law for the issuing of debentures shall provide that the principal shall be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid, but the by-law may provide for annual instalments of combined principal and interest.

Principal
and interest
payments

Sinking
fund
debentures

(2) A money by-law for the issuing of debentures may provide that the principal shall be repaid at a fixed date with interest payable annually or semi-annually, in which case debentures issued under the by-law shall be known as sinking fund debentures.

When debentures to be payable

(3) Notwithstanding any general or special Act, the whole debt and the debentures to be issued therefor shall be made payable within such term of years as the Municipal Board may approve.

Special levy
against
area municipalities

(4) The by-law may provide for raising in each year, by special levy or levies against one or more area municipalities, the whole or specified portions of the sums of principal and interest payable under the by-law in such year, and each such area municipality shall pay to the Metropolitan Corporation such sums at the times and in the amounts specified in the by-law.

General
levy

(5) The by-law shall provide for raising in each year, by a special levy on all the area municipalities, the sums of principal and interest payable under the by-law in such year to the extent that such sums have not been provided for by any special levy or levies against any area municipality or municipalities made especially liable therefor by the by-law.

Levy by
area municipalities

(6) Any special levy against an area municipality imposed by the by-law under the authority of subsection 4 may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality, for the same purpose, for the portion of the debt levied against it under subsection 4.

Levies
a debt

(7) All levies imposed by the by-law against an area municipality are a debt of the area municipality to the Metropolitan Corporation.

By-law to
change mode
of issuing
debentures

(8) The Metropolitan Council may by by-law authorize a change in the mode of issue of the debentures, and may provide that the debentures be issued with coupons instead of in amounts of combined principal and interest or *vice versa*, and where any debentures issued under the by-law have been sold, pledged or hypothecated by the Metropolitan Council, upon again acquiring them, or at the request of any holder of them, may cancel them and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year.

Debentures,
when to be
dated and
issued

(9) All the debentures shall be issued at one time and within two years after the passing of the by-law unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its

being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the Metropolitan Council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years after the passing of the by-law.

(10) All the debentures shall bear the same date, except where they are issued in sets, in which case every debenture of the same set shall bear the same date.

Date of debentures

(11) Notwithstanding the provisions of the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection 9 and the debentures may bear date before the date the by-law is passed if the by-law provides for the first levy being made in the year in which the debentures are dated or in the next succeeding year.

Idem

(12) The Municipal Board, on the application of the Metropolitan Council, the council of any area municipality, a board of education or any person entitled to any of the debentures or of the proceeds of the sale thereof, may at any time extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law.

Extension of time for issue

(13) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

Application after time expired

(14) Unless the by-law names a later day when it is to take effect, it takes effect on the day of its passing.

Effective date

(15) Notwithstanding any general or special Act, the Metropolitan Council may borrow sums for two or more purposes in one debenture by-law and provide for the issue of one series of debentures therefor.

Consolidation

(16) Section 290 of *The Municipal Act* applies *mutatis mutandis* to the Metropolitan Corporation.

Consolidating debenture by-laws R.S.O. 1970, c. 284

(17) The by-law may provide that all the debentures or a portion thereof shall be redeemable at the option of the Metropolitan Corporation on any date prior to maturity subject to the following provisions:

Redemption before maturity

1. The by-law and every debenture that is so redeemable shall specify the place or places of payment and the amount at which such debenture may be so redeemed.
2. The principal of every debenture that is so redeemable becomes due and payable on the date set for the

redemption thereof, and from and after such date interest ceases to accrue thereon where provision is duly made for the payment of the principal thereof, the interest to the date set for redemption, and any premium payable on redemption.

3. Notice of intention so to redeem shall be sent by post at least thirty days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book.
4. At least thirty days prior to the date set for such redemption, notice of intention so to redeem shall be published in *The Ontario Gazette* and in a daily newspaper of general circulation in the City of Toronto and in such other manner as the by-law may provide.
5. Where only a portion of the debentures issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates, and no debentures issued under the by-law shall be called for such redemption in priority to any such debenture that has a later maturity date.
6. Where a debenture is redeemed on a date prior to maturity, such redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the Metropolitan Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the Metropolitan Council in respect of the debenture so redeemed.

Currency

(18) The by-law may provide that the debentures to be issued thereunder shall be expressed and be payable,

- (a) in lawful money of Canada and payable in Canada; or
- (b) in lawful money of the United States of America and payable in the United States of America; or
- (c) in lawful money of Great Britain and payable in Great Britain.

Annual
rates

(19) Where under the provisions of the by-law debentures issued thereunder are expressed and made payable in lawful money of the United States of America or of Great Britain, the Metropolitan Council may in such by-law or in any amending by-law, in lieu of providing for the raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon or instalments of principal falling due in such year, provide that there shall be raised such yearly amount as may be

necessary for such purposes and as the requirements for such purposes may from year to year vary.

(20) When sinking fund debentures are issued, the amount of principal to be raised in each year shall be a specific sum which, with the estimated interest at a rate not exceeding $3\frac{1}{2}$ per cent per annum, capitalized yearly, will be sufficient to pay the principal of the debentures or any set of them, when and as it becomes due. Principal levies

(21) When sinking fund debentures are issued, the sinking fund committee shall keep one or more consolidated bank accounts in which, Consolidated bank accounts

(a) the treasurer of the Metropolitan Corporation shall deposit each year during the term of the debentures the moneys raised for the sinking fund of all debts that are to be paid by means of sinking funds; and

(b) there shall be deposited all earnings derived from, and all proceeds of the sale, redemption or payment of, sinking fund investments. R.S.O. 1960, c. 260, s. 238 (1-21).

(22) When sinking fund debentures are issued, there shall be a sinking fund committee which shall be composed of the treasurer of the Metropolitan Corporation and two members appointed by the Metropolitan Council, and the two appointed members shall be paid, out of the current fund of the Metropolitan Corporation, such annual remuneration as the Metropolitan Council may determine. R.S.O. 1960, c. 260, s. 238 (22); 1970, c. 133, s. 4 (1). Sinking fund committee

(23) The Metropolitan Council may appoint an alternate member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member. R.S.O. 1960, c. 260, s. 238 (23); 1970, c. 133, s. 4 (2). Alternate members

(24) The treasurer of the Metropolitan Corporation shall be the chairman and treasurer of the sinking fund committee and in his absence the appointed members may appoint one of themselves as acting chairman and treasurer. Chairman

(25) Each member of the sinking fund committee shall, before entering into the duties of his office, give security for the faithful performance of his duties and for duly accounting for and paying over all moneys that come into his hands, in such amount as the auditor of the Metropolitan Corporation shall determine, and in other respects the provisions of section 233 of *The Municipal Act* apply with respect to such security. Security
R.S.O. 1970, c. 284

(26) Two members of the sinking fund committee are a quorum, and all investments and disposals of investments must be approved by a majority of all the members of the committee. Quorum

Control of
sinking
fund assets

(27) All assets of the sinking funds, including all consolidated bank accounts, shall be under the sole control and management of the sinking fund committee.

With-
drawals
from bank
accounts

(28) All withdrawals from the consolidated bank accounts shall be authorized by the sinking fund committee, and all cheques on the consolidated bank accounts shall be signed by the chairman or acting chairman and one other member of the sinking fund committee.

Investments

(29) The sinking fund committee shall invest any moneys on deposit from time to time in the consolidated bank accounts and may at any time or times vary any investments.

Idem

(30) The moneys in the consolidated bank accounts shall be invested in one or more of the following forms:

R.S.O. 1970,
c. 470

- (a) in securities in which a trustee may invest under *The Trustee Act*;
- (b) in debentures of the Metropolitan Corporation;
- (c) in temporary advances to the Metropolitan Corporation pending the issue and sale of any debentures of the Metropolitan Corporation;
- (d) in temporary loans to the Metropolitan Corporation for current expenditures, but no loan for such purpose shall be made for a period ending after the end of the calendar year in which the loan is made.

Deposit of
securities
with
Treasurer
of Ontario

(31) Any securities acquired by the sinking fund committee as investments for sinking fund purposes may be deposited with the Treasurer of Ontario.

Release of
securities
by Treasurer
of Ontario

(32) The Treasurer of Ontario shall release, deliver or otherwise dispose of any security deposited with him under subsection 31 only upon the direction in writing of the sinking fund committee.

Sinking
fund
accounts

(33) All sinking fund debentures issued on the same date, payable in the same currency, and maturing on the same date, notwithstanding they are issued under one or more by-laws, shall be deemed one debt and be represented by one sinking fund account.

Earnings
credited to
sinking fund
account

(34) That proportion of the amount of all earnings in any year, on an accrual basis, from sinking fund investments, obtained by,

- (a) multiplying the amount of all such earnings by the amount of the capitalized interest for that year under subsection 20 with respect to the principal raised up to and including such year for all sinking fund debentures represented by any sinking fund account; and

- (b) dividing the product obtained under clause *a* by the amount of all capitalized interest for that year under subsection 20 with respect to all principal raised up to and including such year for all outstanding sinking fund debentures,

shall be credited to the sinking fund account mentioned in clause *a*.

(35) The treasurer of the Metropolitan Corporation shall prepare and lay before the Metropolitan Council in each year, before the annual metropolitan levies are made, a statement showing the sums that the Metropolitan Council will be required, by by-law, to raise for sinking funds in that year.

Sinking
fund
require-
ments

(36) If the treasurer contravenes subsection 21 or 35, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$250.

Offence

(37) If the Metropolitan Council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the Metropolitan Council is disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount. R.S.O. 1960, c. 260, s. 238 (24-37).

Failure
to levy

(38) Notwithstanding this or any other Act or by-law, if it appears at any time that the amount at the credit of any sinking fund account will be more than sufficient, with the estimated earnings to be credited thereto under subsection 34 together with the levy required to be made by the by-law or by-laws that authorized the issue of the debentures represented by such sinking fund account, to pay the principal of the debt represented by such sinking fund account when it matures, the Municipal Board on the application of the sinking fund committee, the Metropolitan Council, the council of an area municipality, The Metropolitan Toronto School Board or a board of education in the Metropolitan Area may authorize the Metropolitan Council or the council of an area municipality to reduce the amount of money to be raised with respect to such debt in accordance with the order of the Municipal Board. 1961-62, c. 88, s. 15 (1); 1968, c. 80, s. 20 (1).

Where
amount in
sinking fund
account
more than
sufficient
to pay debt

(39) No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the Metropolitan Corporation or otherwise than is provided in this section. R.S.O. 1960, c. 260, s. 238 (39).

No diversion
of sinking
funds

(40) When there is a surplus in a sinking fund account, the sinking fund committee shall,

Surplus

- (a) use the surplus to increase the amount at the credit of another sinking fund account; or

- (b) authorize the withdrawal of the surplus from the consolidated bank accounts, and the surplus shall be used for one or more of the following purposes:
- (i) to retire unmatured debentures of the Metropolitan Corporation or of an area municipality,
 - (ii) subject to the approval of the Municipal Board, to reduce the next annual levy on account of principal and interest payable with respect to debentures of the Metropolitan Corporation or of an area municipality,
 - (iii) to reduce the amount of debentures to be issued for other capital expenditures for which the issue of debentures has been approved by the Municipal Board,

and the surplus shall be used under either clause *a* or *b* for the purposes of the Metropolitan Council, the council of an area municipality, The Metropolitan Toronto School Board for public schools, The Metropolitan Toronto School Board for secondary schools, a board of education for public schools, a board of education for secondary schools, the Toronto Transit Commission, a hydro-electric system and the metropolitan waterworks in the proportion that the amount of the contribution for the purposes of each bears to the total contributions to the sinking fund account in connection with which the surplus arose. 1961-62, c. 88, s. 15 (2); 1968, c. 80, s. 20 (2).

Deficit
and
surplus

(41) Notwithstanding that any sinking fund debentures have been issued for the purposes of one or more area municipalities or of a board of education, any deficit in the sinking fund account shall be provided by the Metropolitan Corporation out of its current funds and any surplus in the sinking fund account shall be used as provided in subsection 40. R.S.O. 1960, c. 260, s. 238 (41).

When rate
of interest
may be
varied

224.—(1) If the Municipal Board is of opinion that the current rate of interest so differs from the rate of interest payable on any debentures that remain unsold or undisposed of that the sale or disposal thereof may substantially decrease or increase the amount required to be provided under the by-law under which such debentures were issued, the Municipal Board may authorize the Metropolitan Council to pass a by-law to amend such by-law so as to provide for,

- (a) a different rate of interest;
- (b) a change in the amount to be raised annually and, if necessary, in the special levies;
- (c) such other changes in such by-law or any other by-law as to the Municipal Board may seem necessary to give effect thereto;

- (d) the issue of new debentures to bear interest at the amended rate in substitution and exchange for such first-mentioned debentures; and
- (e) the cancellation of such first-mentioned debentures upon the issue of such new debentures in substitution and exchange therefor.

(2) For the purposes of this section, the hypothecation of debentures under section 222 shall not constitute a sale or other disposal thereof. Hypothecation not a sale under this section

(3) The Metropolitan Council may by one by-law authorized under subsection 1 amend two or more by-laws and provide for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder. Consolidation of debentures

(4) A by-law passed under this section does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the Metropolitan Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the Metropolitan Council. R.S.O. 1960, c. 260, s. 239. Special assessments and levies

225.—(1) Where part only of a sum of money provided for by a by-law has been raised, the Metropolitan Council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually. Repeal of by-law when part only of money to be raised

(2) The repealing by-law shall recite the facts on which it is founded, shall be appointed to take effect on the 31st day of December in the year of its passing, shall not affect any rates or levies due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. R.S.O. 1960, c. 260, s. 240. When to take effect

226.—(1) Subject to section 225, after a debt has been contracted under a by-law, the Metropolitan Council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating, for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source, and shall not alter any such by-law so as to diminish the amount to be raised annually, and shall not apply to any other purpose any money of the Metropolitan Corporation that has been directed to be applied to such payment. Until debt paid certain by-laws cannot be repealed

(2) When the Metropolitan Corporation, by or under the authority of this Act, pays to an area municipality any amount of principal and interest becoming due upon any outstanding Application of payments

debentures issued by the area municipality, neither the council of the area municipality nor any officer thereof shall apply any of the money so paid for any purpose other than the payment of the amounts of principal and interest so becoming due. R.S.O. 1960, c. 260, s. 241.

Offence for neglect of officer to carry out by-law

227. Any officer of the Metropolitan Corporation whose duty it is to carry into effect any of the provisions of a money by-law of the Metropolitan Corporation, who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1960, c. 260, s. 242.

Money by-laws may be registered

228.—(1) Within four weeks after the passing of a money by-law, the clerk of the Metropolitan Corporation may register a duplicate original or a copy of it, certified under his hand and the seal of the Metropolitan Corporation, in the Registry Office for the Registry Division of the City of Toronto. R.S.O. 1960, c. 260, s. 243 (1).

Application to quash registered by-law, when to be made R.S.O. 1970, cc. 323, 136, 255

(2) Subject to section 61 of *The Ontario Municipal Board Act*, every by-law registered in accordance with subsection 1, or before the sale or other disposition of the debentures issued under it, and the debentures are valid and binding, according to the terms thereof, and the by-law shall not be quashed, unless within one month after the registration in the case of by-laws passed under *The Drainage Act* or *The Local Improvement Act*, and in the case of other by-laws, within three months after the registration, an application or action to quash the by-law is made to or brought in a court of competent jurisdiction, and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought is registered in such registry office within such period of three months, or one month, as the case may be. R.S.O. 1960, c. 260, s. 243 (2), *amended*.

Time when by-law to be valid and binding

(3) After the expiration of the period prescribed by subsection 2, if no application or action to quash the by-law is made or brought, the by-law is valid and binding according to its terms.

Quashing part of by-law

(4) If an application or action to quash the by-law is made or brought within the period prescribed by subsection 2, but part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, is, after the expiration of that period, valid and binding according to its terms.

Dismissal of application

(5) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered, and after such dismissal and the expiration of the period prescribed by subsection 2, if it has not already expired, the by-law, or so much of it as is not quashed is valid and binding according to its terms.

(6) Nothing in this section makes valid a by-law passed without the assent of the electors of an area municipality as required by subsection 2 of section 220, or a by-law where it appears on the face of it that any of the provisions of subsection 5 of section 223 have not been substantially complied with.

Illegal by-laws not validated

(7) Failure to register a by-law as prescribed by this section does not invalidate it. R.S.O. 1960, c. 260, s. 243 (3-7).

Failure to register

229.—(1) A debenture or other like instrument shall be sealed with the seal of the Metropolitan Corporation, which seal may be engraved, lithographed, printed or otherwise mechanically reproduced thereon, and, subject to subsection 3, shall be signed by the chairman, or by some other person authorized by by-law of the Metropolitan Corporation to sign it, and by the treasurer.

Debentures how sealed and executed

(2) A debenture may have attached to it interest coupons which shall be signed by the treasurer and his signature to them may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and such interest coupons are sufficiently signed if they bear the signature of the treasurer on the date the Metropolitan Council authorized the execution of the debenture or on the date the debenture bears or at the time the debenture was issued and delivered.

Interest coupons

(3) The signature of the chairman, or such other person authorized by by-law to sign the debentures or other like instruments, may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and, if the debentures or other like instruments are countersigned in writing by a person authorized by by-law of the Metropolitan Corporation to countersign, the signature of the treasurer may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Mechanical reproduction of signatures

(4) The seal of the Metropolitan Corporation when so engraved, lithographed, printed or otherwise mechanically reproduced has the same force and effect as if manually affixed and the signature of the chairman or such other person authorized by by-law to sign the debentures or other like instruments and, if the debentures or other like instruments are countersigned, the signature of the treasurer when so engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the chairman or other person so authorized to sign or of the treasurer, as the case may be, and is binding upon the Metropolitan Corporation.

Effect of mechanical reproduction

(5) Any debenture or other like instrument is sufficiently signed and countersigned if it bears the signatures of the persons provided in this section if such persons had authority to sign and countersign as provided in this section either on the date the Metropolitan Council authorized the execution of such instrument or on the date such instrument bears or at the time it was issued and delivered. R.S.O. 1960, c. 260, s. 244.

Sufficiency of signatures

Debentures on which payment has been made for one year to be valid

230. Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture that has matured has been paid by the Metropolitan Corporation, the by-law and the debentures issued under it are valid and binding upon the Metropolitan Corporation. R.S.O. 1960, c. 260, s. 245.

Mode of transfer may be prescribed

231.—(1) Where a debenture contains or has endorsed upon it a provision to the following effect:

This debenture, or any interest therein, is not, after a certificate of ownership has been endorsed thereon by the treasurer of this Corporation (or by such other person authorized by by-law of this Corporation to endorse such certificate of ownership), transferable except by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book of the Corporation at the
of

the treasurer (or such other persons so authorized), on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to be called the Debenture Registry Book, a copy of the certificate and of every certificate that is subsequently given, and shall also enter in such book a memorandum of every transfer of such debenture.

Requirements as to endorsing certificate of ownership

(2) A certificate of ownership shall not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, and, if the person last entered as owner of it is a corporation, the written authority of such corporation, or its successors, which authority shall be retained and filed by the treasurer.

Transfer by entry in Debenture Registry Book

(3) After a certificate of ownership has been endorsed, the debenture, if it contains or has endorsed upon it a provision to the like effect of the provision contained in subsection 1, is transferable only by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney and, if the then owner of it is a corporation, the written authority of such corporation, or its successors. R.S.O. 1960, c. 260, s. 246.

Replacement of lost debentures

232. Where a debenture is defaced, lost or destroyed, the Metropolitan Council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. R.S.O. 1960, c. 260, s. 247.

233.—(1) On request of the holder of any debenture issued after the 3rd day of April, 1957, by the Metropolitan Corporation, the treasurer of the Metropolitan Corporation may issue and deliver to such holder a new debenture or new debentures in exchange therefor for the same aggregate principal amount.

Exchange of
debentures

(2) On the request of the sinking fund committee, the treasurer of the Metropolitan Corporation may, as provided in this section, exchange debentures heretofore or hereafter issued by the Metropolitan Corporation.

On request
of sinking
fund com-
mittee

(3) Any new debenture mentioned in subsection 1 may be registered as to principal and interest but in all other respects shall be of the same force and effect as the debenture or debentures surrendered for exchange.

New
debentures
of same
force and
effect as
debentures
surrendered

(4) The treasurer and auditor of the Metropolitan Corporation shall cancel and destroy all debentures surrendered for exchange and shall certify in the Debenture Registry Book that they have been cancelled and destroyed and shall also enter in the Debenture Registry Book particulars of any new debenture issued in exchange. R.S.O. 1960, c. 260, s. 248.

Debentures
surrendered
for exchange
to be
cancelled

234.—(1) The moneys received by the Metropolitan Corporation from the sale or hypothecation of any debentures to the extent that such moneys are required for the purpose or purposes for which the debentures were issued, and for the repayment of any outstanding temporary loans with respect thereto, shall be used only for such purpose or purposes.

Application
of proceeds
of
debentures

(2) None of the moneys received by the Metropolitan Corporation from the sale or hypothecation of any debentures shall be applied towards payment of the current or other expenditures of the Metropolitan Corporation, an area municipality or a board of education in the Metropolitan Area.

Idem

(3) Where on the sale of any debentures an amount is realized in excess of that required for the purpose or purposes for which the debentures were issued, the excess amount shall be applied,

Surplus

- (a) if any such debentures are redeemable prior to maturity at the option of the Metropolitan Corporation, to redeem one or more of the debentures having the latest maturity date; or
- (b) to reduce the next annual levy on account of principal and interest payable with respect to such debentures; or
- (c) to reduce the amount of debentures to be issued for other capital expenditures of a similar nature for which the issue of debentures has been approved by the Municipal Board, provided that the principal and interest charges of such debentures are levied upon the assessment of the same class of ratepayers as was levied upon for the principal and interest charges of the debentures with respect to which the excess arose.

Deficiency

(4) Where on the sale of any debentures a deficiency in the amount required for the purpose or purposes for which the debentures were issued is sustained, the amount of such deficiency shall be added to the sum to be raised for the first annual payment of principal and interest with respect to the debentures and the levy made in the first year for such purpose or purposes shall be increased accordingly or shall be raised by the issue of other debentures approved by the Municipal Board for the same or any similar purpose or purposes. R.S.O. 1960, c. 260, s. 249.

Use of proceeds of sale of asset acquired from proceeds of sale of debentures

235. Where real or personal property acquired out of moneys received by the Metropolitan Corporation from the sale or hypothecation of any debentures is disposed of by sale or otherwise, the net proceeds of such disposal shall be applied as an excess in accordance with subsection 3 of section 234 or, with the approval of the Municipal Board, may be applied to meet the whole or a portion of any other capital expenditure the debt charges for which, if raised by taxation, would be raised by taxation levied upon the assessment of the same class of ratepayers as was levied upon for the principal and interest charges of the debentures issued in respect of the property disposed of or sold. 1961-62, c. 88, s. 16.

Tenders for debentures

236. When the Metropolitan Corporation intends to borrow money on debentures under this or any other Act, the Metropolitan Council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. R.S.O. 1960, c. 260, s. 250.

Accounts, how to be kept

237.—(1) The Metropolitan Council shall,

- (a) keep a separate account of every debt;
- (b) where the whole of the debt is not payable in the current year, keep in respect thereof,
 - (i) an additional account for the interest, if any, and
 - (ii) an additional account for the sinking fund or the instalments of principal,

distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted; and

- (c) keep the accounts so as to exhibit at all times the state of every debt, and the amount of money raised, obtained and appropriated for the payment of it.

Consolidated interest account

(2) The Metropolitan Council may by by-law provide and direct that instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of the interest account upon every debt and that provision has been made to meet the interest upon every debt. R.S.O. 1960, c. 260, s. 251.

238. If in any year after paying the interest and appropriating the necessary sum in payment of the instalments there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or in payment of the principal. R.S.O. 1960, c. 260, s. 252.

Application of surplus money

239.—(1) If the Metropolitan Council applies any money raised for a special purpose or collected for a sinking fund in paying current or other expenditure, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Liability of members

(2) If the Metropolitan Council, upon the request in writing of a ratepayer of any area municipality, refuses or neglects for one month to bring an action therefor, the action may be brought by any such ratepayer on behalf of himself and all other ratepayers in the Metropolitan Area.

Action by ratepayer

(3) The members who vote for such application are disqualified from holding any municipal office for two years. R.S.O. 1960, c. 260, s. 253.

Disqualification

240. When, by or under the authority of this Act, the Metropolitan Corporation is or becomes liable for the payment to an area municipality of all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality, the Metropolitan Corporation may, with the approval of the Municipal Board,

Refinancing of debentures

- (a) cancel all such debentures that have not been sold and issue new debentures of the Metropolitan Corporation in substitution and exchange therefor and apply the proceeds thereof, as may be directed by the Municipal Board, for the purposes for which such debentures were issued;
- (b) arrange with the area municipality for the redemption of all such debentures as are redeemable and issue new debentures of the Metropolitan Corporation to raise the moneys required for such redemption;
- (c) purchase, by agreement with the owner or owners thereof, all such debentures of a single issue of the area municipality, and issue new debentures of the Metropolitan Corporation to raise the money required to complete such purchase. R.S.O. 1960, c. 260, s. 254.

PART XVIII

GENERAL

241.—(1) Section 5, Parts XV, XVI, XVII and XXI, section 249 and paragraphs 3, 24, 29 and 42 of section 352 of *The Municipal Act* apply *mutatis mutandis* to the Metropolitan Corporation. 1968, c. 80, s. 21 (1).

Application of R.S.O. 1970, c. 284

Deemed city
under R.S.O.
1970, c. 284

(2) For the purposes of subsection 2 of section 466 of *The Municipal Act*, the by-laws of the Metropolitan Corporation or of any local board thereof shall be deemed to be by-laws passed by the council of a city. R.S.O. 1960, c. 260, s. 255 (2).

Erections,
annexations
and amalga-
mations

(3) Sections 10 and 11 and, subject to subsection 2 of section 149, section 14 of *The Municipal Act* do not apply to any area municipality except in relation to alterations of boundaries, within the Metropolitan Area, of area municipalities, which alterations, in the opinion of the Municipal Board, are of a minor nature. 1966, c. 96, s. 36 (2).

Harbour
commission

(4) Nothing in this Act alters or affects the powers of The Toronto Harbour Commissioners. R.S.O. 1960, c. 260, s. 255 (5).

Nuisances

(5) The Metropolitan Corporation shall be deemed to be a local municipality for the purpose of paragraph 120 of subsection 1 of section 354 of *The Municipal Act*. R.S.O. 1960, c. 260, s. 255 (7).

Emergency
measures
civil
defence

(6) By-laws may be passed by the Metropolitan Council,

- (a) for the establishment and maintenance of emergency measures civil defence organizations in the Metropolitan Area; and
- (b) for providing moneys for emergency measures and civil defence, for the purposes of emergency measures civil defence organizations and for the cost of the operation of such organizations, and for other similar work in the Metropolitan Area,

and, when a by-law passed under this subsection is in force in the Metropolitan Area, any by-law passed by the council of an area municipality under subclauses ii and iii of clause *b* of section 353 of *The Municipal Act* has no effect. 1960-61, c. 61, s. 13.

Powers of
Metro-
politan
Council re
emergency
measures

(7) When a by-law passed under clause *a* of subsection 6 is in force, the Metropolitan Council may pass by-laws,

- (a) with the consent of the area municipality or local board concerned, for appointing heads of departments and alternates to be members of the Metropolitan Toronto Emergency Measures Organization or any committee thereof;
- (b) with the consent of the area municipality or local board concerned, for training employees of the area municipality or local board in their functions under the Metropolitan Toronto Emergency Measures Organization;
- (c) for appointing members of the Metropolitan Toronto Emergency Measures Organization, or of any committee thereof, to be in charge of such departments or utilities throughout the Metropolitan Area, as the by-law may provide, when an emergency has been

proclaimed under the *War Measures Act* (Canada) or under *The Emergency Measures Act*; R.S.C. 1952, c. 288

- (d) for acquiring alternative headquarters for the metropolitan government outside the Metropolitan Area; R.S.O. 1970, c. 145
- (e) for designating evacuation routes and empowering members of the Metropolitan Police Force to require persons to use such routes;
- (f) for obtaining and distributing emergency materials, equipment and supplies; and
- (g) for complying with any request of the Government of Canada or Ontario in the event of a nuclear attack. 1961-62, c. 88, s. 17 (3); 1962-63, c. 89, s. 13 (2).

(8) Notwithstanding any other provision in this Act, the Metropolitan Council may pass by-laws authorizing the head of the department concerned to grant such of the approvals and consents required by subsection 2 of section 41, subsection 1 of section 57, subsection 2 of section 58 and subsection 2 of section 75 as are designated in the by-law, and any such by-law may prescribe terms and conditions under which any such approval or consent may be granted. R.S.O. 1960, c. 260, s. 255 (9).

Delegation
of approvals
or consents

242. The Metropolitan Council may, by a vote of three-fourths of the members of the Council present and voting, expend in any year such sum as it may determine for the purpose of diffusing information respecting the advantages of the municipality as an industrial, business, educational, residential or vacation centre and may make annual grants for a period not exceeding five years, and upon the expiration of any such period may make similar grants for a further period not exceeding five years. 1968, c. 80, s. 22.

Expenses for
diffusing
information

243.—(1) The Metropolitan Corporation may enter into an agreement with the Ontario Motor League or any similar organization for the provision and maintenance of an emergency call system on any metropolitan road.

Agreement
for
emergency
call system

(2) An agreement entered into under subsection 1 may be for such period and on such terms and conditions as may be thought proper. 1968-69, c. 77, s. 11.

Terms and
conditions

244. The Metropolitan Council may make annual grants, in such amounts as it may determine, to institutions, associations and persons carrying on or engaged in works that in the opinion of the Metropolitan Council are for the general advantage of the inhabitants of the Metropolitan Area and for which grant or grants there is no express authority provided by any other Act. 1966, c. 96, s. 38; 1970, c. 66, s. 3.

Grants to
persons
engaged in
work ad-
vantageous
to Metro-
politan Area

245. The Metropolitan Corporation may assume the whole or any part of the capital and operating costs of the fire boat and the marine fire boat station of the City of Toronto. 1965, c. 81, s. 8.

Assumption
of costs of
fire boat

Undue noise
from motor
vehicles

246. The Metropolitan Corporation may pass by-laws prohibiting the driving or operating of motor vehicles in the Metropolitan Area that create undue noise and for the purposes of any such by-law may define the expressions motor vehicles and undue noise. R.S.O. 1960, c. 260, s. 259.

Payment of
damages to
employees
R.S.O. 1970,
c. 505

247. Where in an action or by the settlement of a claim arising out of an injury to an employee or to any person deemed an employee for the purposes of *The Workmen's Compensation Act* the Metropolitan Corporation recovers damages from a third person, such damages or any portion thereof may be paid to such employee or person or, in the event of his death, to one or more of his dependants upon such terms and conditions as the Metropolitan Corporation may impose. 1962-63, c. 89, s. 14.

Investiga-
tion by
county judge
of charges of
malfeasance

248.—(1) Where the Metropolitan Council passes a resolution requesting a judge of the county court of the Judicial District of York, or a judge of the county court of a county adjoining the Judicial District of York, to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the Metropolitan Council, or an officer or employee of the Metropolitan Corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, employee or other person to the Metropolitan Corporation, or to inquire into or concerning any matter connected with the good government of the Metropolitan Corporation or the conduct of any part of its public business, including any business conducted by a local board of the Metropolitan Corporation, the judge shall make the inquiry and for that purpose has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*, and he shall, with all convenient speed, report to the Metropolitan Council the result of the inquiry and the evidence taken.

R.S.O. 1970,
c. 379

Fees payable
to judge
R.S.O. 1970,
c. 228

(2) The judge shall be paid by the Metropolitan Corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under *The Judicature Act*.

Engaging
counsel

(3) The Metropolitan Council may engage and pay counsel to represent the Metropolitan Corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the Metropolitan Corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel. R.S.O. 1960, c. 260, s. 261, *amended*.

Commission
of
inquiry

249.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may issue a commission to inquire into the affairs of the Metropolitan Corporation or a local board thereof, and any matter connected therewith, and the commissioner has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*.

(2) A commission may be recommended at the instance of the Department, or upon the request in writing of not less than one-third of the members of the Metropolitan Council, or of not less than fifty ratepayers of an area municipality assessed as owners and resident therein.

When commission may issue

(3) The expenses of and incidental to the execution of the commission, including the fees and disbursements of the commissioner, shall be fixed and certified by the Minister and are subject to such division between the Metropolitan Corporation and the Province as the Lieutenant Governor in Council may direct. R.S.O. 1960, c. 260, s. 262.

Expenses of commission

250. The Metropolitan Corporation for its purposes may enter, break up, dig and trench in, upon and under the highways, lanes and other public communications of any area municipality and may construct and maintain therein pipes, sewers, drains, conduits and other works necessary for its purposes, without making compensation therefor, but all such highways, lanes and other public communications shall be restored to their original condition without unnecessary delay. R.S.O. 1960, c. 260, s. 263.

Entry on highways, etc.

251. The Metropolitan Corporation and any area municipality may enter into agreements for the use within any part of the Metropolitan Area of the services of their respective officers, employees and equipment. R.S.O. 1960, c. 260, s. 264.

Agreements re services

252.—(1) For the purposes of paragraph 9 of section 3 and section 35 of *The Assessment Act*, the Metropolitan Corporation shall be deemed to be a municipality.

Application of R.S.O. 1970, c. 32

(2) For the purposes of paragraph 9 of section 3 of *The Assessment Act*, where property belonging to the Metropolitan Corporation is occupied by an area municipality or where property belonging to an area municipality is occupied by the Metropolitan Corporation or another area municipality, the occupant shall be deemed not to be a tenant or lessee, whether rent is paid for such occupation or not. R.S.O. 1960, c. 260, s. 265.

Metropolitan Corporation and area municipalities not deemed tenants

(3) In subsection 2, “Metropolitan Corporation” and “area municipality” include a local board thereof. 1966, c. 96, s. 39.

Interpretation

253.—(1) An execution against the Metropolitan Corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings therein shall then be the following:

Executions against Metropolitan Corporation

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the Metropolitan Corporation, or leave such copy at the office or dwelling place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution,

including the interest calculated to some day as near as is convenient to the day of the service.

2. If the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment rolls of all the area municipalities and shall, in like manner as the levies of the Metropolitan Council for general purposes are apportioned among the area municipalities, determine the portion of the amount mentioned in the statement that shall be levied against and in each area municipality.
3. The sheriff shall then in like manner as rates are struck for general municipal purposes within each area municipality strike a rate sufficient in the dollar to cover its share of the amount due from the execution and in determining such amount he may make such addition to the same as the sheriff considers sufficient to cover its share of the interest up to the time when the rate will probably be available and his own fees and poundage.
4. The sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the area municipality, and shall annex to the precept the roll of such rate, and shall by the precept, after reciting the writ and that the Metropolitan Corporation has neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect to the general annual rates.
5. If, at the time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto, headed "Execution rate in A. B. vs. The Municipality of Metropolitan Toronto" (adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon.
6. The sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within ten days after receiving the same, to the treasurer of the area municipality.

Functions of
clerk, assess-
sors and
collectors

(2) The clerk, assessor and collector of each area municipality shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such are amenable to the court and may be proceeded against by attach-

ment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. R.S.O. 1960, c. 260, s. 266.

254. The Lieutenant Governor in Council, upon the recommendation of the Municipal Board, may authorize the Metropolitan Corporation to do all such acts or things not specifically provided for in this Act that are considered necessary or advisable to carry out effectively the intent and purposes of this Act. R.S.O. 1960, c. 260, s. 268.

Conditional powers

255. The provisions of this Act apply notwithstanding the provisions of any general or special Act and, in the event of any conflict between this Act and any general or special Act, this Act prevails. R.S.O. 1960, c. 260, s. 269.

Conflict with other Acts

256.—(1) Notwithstanding anything in *The Power Commission Act* or in *The Public Utilities Act* or in any other special or general Act, the whole of the Township of Scarborough, the whole of the Township of North York and the whole of the Township of Etobicoke shall each be deemed to be an area established under subsection 1 of section 70 of *The Power Commission Act*, being chapter 300 of The Revised Statutes of Ontario, 1960, and The Public Utilities Commission of the Township of Scarborough, The Hydro-Electric Commission of the Township of North York and The Hydro-Electric Commission of the Township of Etobicoke shall each be deemed to have been established for the whole of the said respective areas. R.S.O. 1960, c. 260, s. 270 (1), *amended*.

Areas re hydro
R.S.O. 1970,
cc. 354, 390

(2) If any of such corporations desire to enter into a contract with The Hydro-Electric Power Commission of Ontario for the supply of electrical power or energy for the use of the municipality and inhabitants thereof, the assent of the municipal electors is not necessary.

Assent of electors

(3) Subject to this section and where not inconsistent therewith, Part II of *The Power Commission Act* shall be deemed to apply to each of such commissions and areas. R.S.O. 1960, c. 260, s. 270 (2, 3).

Application of
R.S.O. 1970,
c. 354,
Part II

257.—(1) The Metropolitan Corporation or an area municipality or the Metropolitan Corporation and one or more area municipalities,

Municipal buildings

(a) may acquire land for the purposes of constructing municipal buildings; and

(b) may construct municipal buildings for the use of the Metropolitan Corporation or the Metropolitan Corporation and one or more area municipalities. R.S.O. 1960, c. 260, s. 271 (1); 1961-62, c. 88, s. 18.

(2) Section 256 of *The Municipal Act* applies *mutatis mutandis* to any joint undertaking under this section. R.S.O. 1960, c. 260, s. 271 (2).

Application of R.S.O. 1970, c. 284

Municipal
parking
lots

258.—(1) The Metropolitan Corporation shall be deemed to be a municipality for the purposes of paragraphs 72 and 73 of section 352 of *The Municipal Act*.

Agreements
authorized

(2) The Metropolitan Corporation and The Corporation of the City of Toronto may enter into an agreement to provide for the operation by The Parking Authority of Toronto of any or all of the parking lots of the Metropolitan Corporation or the parking authority established by the Metroplitan Corporation. R.S.O. 1960, c. 260, s. 272.

Boroughs
deemed
cities under
R.S.O. 1970,
c. 202, s. 82

259. For the purposes of section 82 of *The Highway Traffic Act*, the Boroughs of East York, Etobicoke, North York, Scarborough and York shall be deemed to be cities. 1966, c. 96, s. 40.

FORM 1

(Section 6 (4))

I,, having been elected (*or appointed*) as chairman of the council of The Municipality of Metropolitan Toronto, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me, etc.

R.S.O. 1960, c. 260, Form 1.

FORM 2

(Section 6 (4))

DECLARATION OF QUALIFICATION BY CHAIRMAN

I,, having been elected (*or appointed*) as chairman of the council of The Municipality of Metropolitan Toronto, declare that:

1. I am a British subject and am not a citizen or a subject of any foreign country.

2. I am of the full age of twenty-one years.

3. I am not an officer, employee or servant of any area municipality or any local board of any area municipality.

4. I have not by myself or a partner, directly or indirectly, any interest in any contract with or on behalf of The Municipality of Metropolitan Toronto or any local board thereof or any area municipality or local board thereof.

5. I have taken the oath of allegiance (Form 1) which I attach hereto.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me, etc.

R.S.O. 1960, c. 260, Form 2.

